

Exhibit B

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

COURTNEY LINDE, ET AL.,)
) 04CV02799 (BMC)
Plaintiffs,) And all related cases:
) 04CV05449 (Litle)
) 04CV05564 (Almog)
) 04CV00365 (Coulter)
) 05CV00388 (Afrait-Kurtzer)
) 05CV03183 (Bennett)
) 05CV03768 (Roth)
-against-) 06CV01623 (Weiss)
)
) United States Courthouse
) Brooklyn, New York
)
ARAB BANK, PLC,) MONDAY, AUGUST 25, 2014
)
Defendant.)
)

TRANSCRIPT OF CIVIL CAUSE FOR JURY TRIAL
BEFORE THE HONORABLE BRIAN M. COGAN
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR PLAINTIFFS LINDE OSEN, LLC
AND COULTER: BY: GARY M. OSEN, ESQ.

TURNER & ASSOCIATES, PLLC
BY: CLYDE T. TURNER, ESQ.

FOR PLAINTIFFS LITLE, SAYLES WERBNER
BENNETT AND ROTH: BY: MARK S. WERBNER, ESQ.

FOR PLAINTIFFS ALMOG: STONE BONNER & ROCCO, LLP
BY: JAMES P. BONNER, ESQ.

MOTLEY RICE, LLC
BY: MICHAEL E. ELSNER, ESQ.
BY: JODI FLOWERS, ESQ.

1 and nothing but the truth?

2 THE WITNESS: Yes, I so affirm.

3 THE CLERK: Okay. May he please spell his name for
4 the reporter.

5 THE WITNESS: Ronnie Shaked, R-o-n-n-i, S-h-a-k-e-d.

6 RONNI SHAKED,
7 called as a witness, by and on behalf of the plaintiffs,
8 having been first duly sworn, was examined and testified as
9 follows:

10 THE CLERK: Thank you. You may be seated.

11 THE COURT: Let me ask the interpreters how are you
12 going to work it between the two of you?

13 THE INTERPRETER: Switch every 20 minutes.

14 THE COURT: So whoever is talking will talk into the
15 mike.

16 You may proceed.

17 MR. TURNER: I was going to make one point. And I
18 presume this is the way the Court proceeds in these kinds of
19 circumstances. The witness himself does not have a
20 microphone, and I presume that's okay with you.

21 THE COURT: I think that's okay.

22 MR. TURNER: Okay. I'll try to make sure he speaks
23 up, as we move through.

24 THE COURT: Since we won't understand the words he's
25 saying, I'm not sure we have to hear them well.

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1 MR. TURNER: I agree. Secondly, by way of
2 introduction, this is the language of Hebrew. May I proceed?

3 THE COURT: You may.

4 DIRECT EXAMINATION

5 BY MR. TURNER:

6 Q Give us your name, please.

7 A Ronni Shaked.

8 Q And where are you from, Dr. Shaked?

9 A I'm from Jerusalem. I live in a suburb near Jerusalem.

10 Q What do you do for a living?

11 A I'm currently working in a Hebrew University in
12 Jerusalem. My profession is academic researcher and
13 journalist.

14 Q Do you speak English?

15 A Yes, I can speak English.

16 Q What other languages do you speak?

17 A I speak Arabic, and English and Hebrew.

18 Q We're going to be communicating today in Hebrew. Why is
19 that?

20 A Because it is easier for me to discuss the professional
21 subjects that will be the subject of this trial and easier for
22 me to express myself in Hebrew.

23 Q Now, by way of introduction for the remainder of today,
24 and throughout probably most of tomorrow, we're going to be
25 talking about who was responsible for the 24 attacks, terror

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1 attacks, that are at issue in this lawsuit. Do you understand
2 that?

3 A Yes, I understand that.

4 Q Let's back up for a minute. Do you have a family?

5 A Yes, I have a family.

6 Q Tell us about your family very briefly.

7 A I have three kids. Sadly, one of them died four years
8 ago this week. The two older girls are officers in the prison
9 service, in Israel. My wife is a nurse. I have seven
10 grandchildren. And I live, as I said, in a suburb of
11 Jerusalem.

12 Q Does all of your family live in Israel?

13 A Yes.

14 Q Tell us a little bit about your educational background?

15 A I went to high school in Jerusalem, a high schooled
16 called, Leyada Hauniversita, L-e-y-a-d-a
17 H-a-u-n-i-v-e-r-s-i-t-a. After that, I went to Hebrew
18 University and completed my BA. I took a break for a few
19 years. In 2004, I returned to the university to complete my
20 MA. I finished my MA Summa cum laude. I finished my Ph.D.,
21 finish writing my Ph.D., about four months ago. In about a
22 month I should get the final approval of my Ph.D., which will
23 be my third degree.

24 Q Let's back up to after you graduated from high school.

25 Did you go into the military service in Israel?

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1 A Yes, I did. I joined the military.

2 Q What field did you initially begin in, in the military?

3 A In the first half of my military service, I served as a
4 paratrooper. I was a combat soldier. And in a second half of
5 my service, I served in the Intelligence Unit.

6 Q Let's focus a little bit on the Intelligence Unit. Tell
7 us about the Intelligence Unit that you were trained in. What
8 kind of things did you do?

9 A I served in the Intelligence Unit in the year 1965, when
10 the city of Jerusalem was still divided. The purpose of the
11 unit I served in was to check out and assess the intelligence
12 related to the Jordanian Army, which was posted, positioned
13 right opposite us, and to discover intelligence about the
14 beginning of the terrorism that was going on at that time,
15 Palestinian terrorism.

16 Q What was your specific role when you began in the
17 intelligence community, in the military, in Israel back in the
18 60s?

19 A My role was to analyze the intelligence that came from
20 the field and, based on that analysis, to determine what
21 needed to be done; either to prevent terror attacks or other
22 activities taken by the military, by the Jordanian military,
23 at that time.

24 Q Did you receive training in the intelligence community
25 back in the 60s?

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1 A Yes, I took courses. I was given courses when I was in
2 the intelligence forces.

3 Q Tell us a little bit about the period of time that you
4 worked in intelligence. Did you get promoted? Did you
5 graduate up to different jobs?

6 A When I was serving in the military intelligence, I was,
7 indeed, promoted, and I was made responsible for collecting
8 intelligence for a particular part of Jerusalem. After I
9 completed my military service, I served in other areas of
10 intelligence, after I completed my BA in university.

11 Q Now, when you were in -- that first period of time that
12 you were working in the intelligence area, did you have the
13 opportunity to communicate with the Palestinian territories,
14 the Palestinian communities that surrounded Jerusalem?

15 A During the first period, when I served in intelligence,
16 Jerusalem was still divided, and so I had no ability to
17 community with the Arab community. During the second period,
18 certainly, yes.

19 Q Let's go to the second period. At some point in time,
20 did you leave the military?

21 A Yes, I completed my military service late 1966.

22 Q What did you do then?

23 A I went to study in the Hebrew university in Jerusalem. I
24 studied Middle Eastern Studies.

25 Q What does that mean, Middle Eastern Studies?

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1 A Middle Eastern Studies involves the study of societies of
2 the Middle East, the culture of the Middle East, the Islamic
3 religion; the various developments in the Middle East relative
4 to other places in the world, and most especially involves
5 understanding the Middle East as it existed at that time.

6 Q Where was Hebrew University at the time?

7 A It was in Jerusalem, in what is today known as the
8 western part of the city.

9 Q At some point, did you reenter government service?

10 A During the third year of my studies, towards the end, I
11 joined the ISA, the Israeli Security Agency.

12 Q So the ladies and gentlemen can sort of get an idea, what
13 at that time was the Israeli Security Agency?

14 A The Israeli Security Agency is an intelligence
15 organization that is aimed at preventing terror attacks from
16 occurring. It also works to prevent subversive political
17 activity in order to defend the security of the state of
18 Israel. During those years, the main activity was preventing
19 Palestinian terror attacks perpetrated against Israeli
20 citizens. And if I may add, it can be compared to the work of
21 the FBI in the United States.

22 Q Now, when you reentered government service, can you sort
23 of, first of all, describe for us the time period; when did
24 you reenter and how long did you stay?

25 A In the end of 1968, I returned to my work in the ISA. I

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1 worked in the ISA until the end of the Lebanon War in 1982. I
2 worked a total of about 12 and a half to 13 years in the
3 field.

4 Q Let's talk about that 12-and-a-half to 13-year period for
5 a moment. First of all, when you reentered the ISA, the
6 Israeli Security Agency, what was your job within the
7 intelligence community?

8 A I studied very intensively the Arabic language, and I
9 became a handler of agents. Just to explain to you what the
10 role means, I can say that that meant recruiting agents from
11 the Palestinian society, aiming at detecting and preventing
12 terrorist acts. To recruit means to actually win the trust of
13 people and then to handle them as agents, and that is in their
14 society in enemy territory, as my commanders have instructed
15 me and according to the instructions I received.

16 Q When you say handler, does that mean you were actually
17 working with Palestinians?

18 A When I say that I worked with them, I meant that I worked
19 with the Palestinians, together with the Palestinians, in the
20 midst of Palestinians. I maintained a daily and an hourly
21 contact with Palestinians, in their society, with the agents I
22 handled and the interrogees I interrogated.

23 Q Now, as part of your job as a handler, was it important
24 for you to understand the Palestinian society, the
25 communities, how they operated and how they thought?

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1 A Without understanding the Palestinian society, the
2 various social codes of the society, their language, their
3 symbols, their religion; their culture, their mindset, their
4 political concepts of a particular society, there's no way to
5 understand the society, and this is what I did, I did all I
6 could in order to decipher their codes, to understand their
7 language thoroughly, to study their culture, to study their
8 moral ethics of the Palestinian society, in order to swim like
9 fish in the water of the Palestinian society.

10 Q Now, during the period of time you were working in the
11 ISA, at some point were you promoted?

12 A Yes, indeed, I have been promoted.

13 Q Tell us about that promotion.

14 A My first role was the commander of the (sic) Jerusalem,
15 and that meant that I was responsible for other handlers and
16 other agents. I was the one who had to direct various
17 operations, to set the conditions on the ground, in order to
18 prepare for operations of thwarting terrorism by gathering
19 intelligence. I had to advance my employees, other employees,
20 so they reach full and comprehensive understanding that which
21 would give them better control and more clarity with respect
22 to the field. For that purpose, I had to maintain ties with
23 other organizations of the Israeli government and other law
24 enforcement or other intelligence agencies.

25 In my second period, I was promoted to be the

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1 commander of the Ramallah agent, where I did the same things
2 like I did in Jerusalem, but, there, the scope of my work was
3 far larger than that of the city.

4 Q At some point in time, did your geographic area that you
5 were responsible for expand?

6 A Even very much so.

7 Q How did it expand?

8 A When we talk about the area of Jerusalem, you can see
9 that there's a very particular kind of a population. But in
10 Ramallah, the population is more diverse. You have city
11 dwellers, you have rural population; I have the Palestinian
12 refugee camps; I have areas where there are people who are
13 wanted, and one has to cope with them in order to apprehend
14 them. There's also very extensive military activity taking
15 place in the area, unlike the city of Jerusalem that is
16 totally under civilian control.

17 Q During the period of time that you were working in
18 intelligence, and specifically working with terror, was it
19 important to your job to know and understand where the terror
20 cells were developing, who communicated with whom, and who was
21 in charge?

22 MR. INGERMAN: Objection.

23 THE COURT: Sustained.

24 Q During the period of time that you worked for the ISA,
25 working in the context of terror, was it important for you to

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1 go into the communities?

2 A Of course, it was very, very important for me to be in
3 touch with the population, not just to study about them but to
4 also know who from among them could be recruited as agents
5 that would later be serving me for my security ends. It is
6 very important to get to the community, to get to know it, to
7 know who I was up against, to know exactly who the elite was,
8 what people -- what economic status, to know the academics
9 around them, to know what social influence they had and also
10 to know the rank and file who live their daily lives; I had
11 connections and ties with them too. And also to know the
12 political segmentation of the population, to understand its
13 structure, to understand the aspiration of the population, to
14 know how it exists, how the Palestinian society exists in the
15 conditions that prevailed back then.

16 Q At some point in time did you leave the ISA for the
17 public sector?

18 A Yes, in 1988, in 1982 late 1982, I left the ISA and I
19 became a journalist.

20 Q Where did you go to work?

21 A I was very happy, but I immediately joined the largest,
22 the most distributed, newspaper in Israel
23 named "Yedothahronoth," Y-e-d-o-t-h-a-h-r-o-n-o-t-h.

24 Q Did you have an area within the paper that you
25 specialized in?

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1 A Already the beginning of my way there, I became the
2 correspondent for Palestinian affairs, terror affairs, Arab
3 affairs, Palestinian affairs, and those Palestinians residing
4 within the state of Israel; and that had to do with every
5 issue pertaining to Palestinians, which is called the
6 Palestinian desk. All that was under my responsibility. In
7 addition to their various political connections, not only to
8 Israel, but also as to other Arabs in the Islamist world.

9 Q Over the years that you worked in -- let me just strike
10 that and ask this question. How many years total did you work
11 for the newspaper?

12 A Thirty years.

13 Q And during that 30-year period, was your focus pretty
14 much on terrorism?

15 A This was actually to me the most important topic, as it
16 was to my editor. It was the topic in the state of Israel.

17 Q During that 30-year period, did you investigate, and
18 study and analyze terrorism only in Israel, the West Bank and
19 Gaza, or did you do it in other places as well?

20 MR. INGERMAN: Objection.

21 THE COURT: Overruled.

22 A Terrorism is terrorism is terrorism, and there are
23 various influences coming from Israel to the world and from
24 the world to Israel. This is why I studied terrorism in the
25 entire Middle East and around the world as well.

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1 Q Are you also an author of books on terrorism?

2 A Yes, I did write two books on terrorism. In addition to
3 two others that only marginally touch upon terrorism.

4 Q When did you first become aware of a terror group called
5 "Hamas"?

6 A Actually, a few days after Hamas was founded, on the 14th
7 of December 1987 --

8 THE INTERPRETER: December?

9 THE WITNESS: December.

10 A 1987. I had already become aware of the existence of
11 Hamas organization.

12 Q When did you first become aware of someone named Sheikh
13 Yassin?

14 A Well, I learned about him a long time before Hamas. I
15 wrote about him already in 1982. And in 1983, when I covered
16 his trial, he was tried in Israel, in court.

17 Q Over the years, did you personally have an opportunity to
18 be in the same room with Sheikh Yassin?

19 A Many, many times I would say, without exaggerating.

20 Q Did you actually have interviews and communications
21 directly with Sheikh Yassin over the years?

22 A When Sheikh Yassin was in prison, in 1993, I was writing
23 my book about Hamas, and I sat with him for many long hours,
24 and I interviewed him for the purpose of writing my book.

25 This was the first book that was written about Hamas, and the

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1 help that I received from Sheikh Yassin was very, very
2 welcome. When he was released in 1997 and returned to the
3 Gaza Strip, I visited him in his home a number of times, and I
4 also visited him in the Islamic center in Gaza. We also had
5 telephone calls as part of my journalistic work.

6 Q Now, there's been a statement made during the course of
7 this trial that Hamas was a secretive organization. How many
8 years have you been both investigating, following and
9 reporting on Hamas?

10 MR. INGERMAN: Your Honor, before we have the
11 answer, may we approach quickly?

12 THE COURT: Sure.

13 (Sidebar - Outside the presence of the jury.)
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SIDEBAR

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1 MR. INGERMAN: Thank you, your Honor. I'm somewhat
2 challenged because of the translation, but the question was
3 how many years have you been investigating Hamas? The answer
4 went on for almost 45, 50 seconds. It seems to me that the
5 witness is offering more than the answer, more than an answer
6 to the question.

7 THE COURT: Well, he is an expert, and it cuts off
8 some of the questioning and makes it a faster exchange. I'm
9 going to allow it. You can't really object on the ground that
10 the answer is not responsive until you hear the answer. I
11 would urge you not to make those objections, because he is the
12 expert.

13 (Sidebar concluded.)
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1 (In the presence of the jury.)

2 THE COURT: Go ahead.

3 Q He may go ahead and finish his answers.

4 THE COURT: Well, she has to translate the question.
5 I don't think she did that yet.

6 THE WITNESS: Since Hamas was founded, to this very
7 day, and I emphasize this very day, I have been investigating
8 and researching with Hamas. If I may add one comment that was
9 said early on, Hamas was a secretive organization but also to
10 the Palestinian society, Israeli society and to the
11 international community. This was no secret organization.
12 Everyone knew exactly what the Hamas structure was. Everyone
13 knew who the individuals in Hamas were, everyone, and I
14 mean -- not everyone, but everyone who's engaged with the
15 subject of Hamas knows the Hamas operatives. And as a
16 journalist, for sure, I have known many of the Hamas members.
17 I knew their telephone numbers that I received from their
18 leadership, because they gave me those numbers for me to be
19 able to contact their operatives, to interview them,
20 especially in those areas where we operated.

21 Q During the relevant time frame here, between 1999 and
22 2005, on this topic of secrecy, did Hamas have their own
23 websites?

24 A Yes, it did.

25 Q Did Hamas have its own TV station?

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1 A Yes.

2 Q Did Hamas have its own radio stations?

3 A Yes, it had radio stations. It had one central station
4 and a number of regional stations.

5 Q Did Hamas have its own newspaper, where they published --
6 actually published information for the various communities
7 across the West Bank and Gaza?

8 A Yes, not just one newspaper.

9 Q Did they also have public ceremonies, where Hamas would
10 invite the public to come to the Hamas ceremonies?

11 A Yes, they held many such ceremonies.

12 Q Now, over your lifetime of experience involving terror
13 and including Hamas, have you from time to time been consulted
14 by the FBI?

15 A Yes, a number of times during my career I was consulted
16 by the FBI, to discuss various issues related to terror.

17 (Proceedings continued on the next page.)

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NICOLE CANALES, CSR, RPR

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1 Q And in the context of your consultations with the FBI,
2 did you come to the United States?

3 A Yes, in USA, too.

4 Q And did you have an opportunity to collaborate with the
5 FBI, share information, in other words, with the FBI, about
6 terror, including Hamas?

7 A It wasn't exactly a collaboration. They wanted to hear
8 my expert opinion about Islamic terror.

9 Q Now, over the years, have you also participated in the
10 creation of documentaries about terror and Hamas?

11 A Yes. I was involved over the years in the production
12 of a number of films about Hamas and especially the main
13 film I was involved in in 2006.

14 MR. TURNER: Your Honor, at this point, I would
15 like to put something on the screen. Can we have the
16 screen; is that possible?

17 THE COURT: I thought we were just asked to raise
18 the screen. We'll lower it again. It's fine.

19 MR. INGERMAN: Your Honor, before it's shown to
20 the jury, can we have some idea what it is?

21 THE COURT: Yes. Show it to counsel first.

22 MR. TURNER: Thank you.

23 BY MR. TURNER:

24 Q Now, as part of your work in this particular case,
25 Mr. Shaked, have you had an opportunity to help prepare a

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1 map of Israel, the West Bank and Gaza that specifically
2 identifies the 24 attacks that we're here to talk about?

3 A Yes, sir.

4 MR. TURNER: And can you put it on the screen.

5 THE COURT: Witness only. Go ahead.

6 BY MR. TURNER:

7 Q It should be on your screen at some point in time,
8 Mr. Shaked.

9 A It's on my screen.

10 Q Do you recognize that particular map?

11 A Of course I am familiar with this map.

12 Q And will that help illustrate what we're about to begin
13 talking about?

14 A Yes, it will indeed help to illustrate the subject we
15 are about to talk about.

16 MR. TURNER: May I put it up there now?

17 MR. STEPHENS: No objection, your Honor.

18 THE COURT: All right.

19 BY MR. TURNER:

20 Q Now, we've listed on this particular map all 24 terror
21 attacks that are at issue in this litigation.

22 Do you understand that, sir?

23 A Yes, I do.

24 Q Okay. Just so we can sort of get our coordinates
25 correct, first of all, can you identify the West Bank on

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1 this particular map in this segment that we've blown up?

2 A Yes, I can.

3 Q All right. And I believe you can actually draw on that
4 screen.

5 Okay. Now, can you back out of that, Mr. Miller, if
6 you will, and go down to Gaza for a minute just so we orient
7 ourselves to where these particular locations are.

8 Can you circle the Gaza Strip for us.

9 A (Indicating.)

10 Q And you live in Jerusalem; is that correct? And you
11 circled Jerusalem.

12 All right. Now, have you had an opportunity to
13 investigate these 24 attacks?

14 A Yes, I did have such an opportunity.

15 Q And have you been able to complete an investigation to
16 the point where you feel comfortable concluding who or what
17 terror group was responsible for these 24 attacks?

18 A Yes, I am able to make that conclusion.

19 Q And what is your conclusion?

20 A My conclusion is that for 21 of the terror attacks,
21 there is a very high degree of probability that they were
22 indeed carried out by Hamas. For the others, there is a
23 high probability that they were carried out by Hamas.

24 I say this because different types of terror attacks
25 were involved. There is a difference between a terror

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1 attack carried out by a suicide bomber, in which case it is
2 easier, almost definite, I say almost certain that we could
3 determine who carried it out, compared to other terror
4 attacks such as shooting, the shooting of mortars, or terror
5 attacks carried out by two organizations collaborating
6 together.

7 Therefore, I say that in 21 of the cases, there is a
8 very high assessment that they were carried out by Hamas and
9 the other three, there is a high probability but slightly
10 less so.

11 Q Now, during the course of your investigation -- can we
12 have the lights back up.

13 During the course of your investigation, I want to
14 focus on the sources of information that you had available
15 to you in order to reach these conclusions, okay?

16 A All right.

17 Q First of all, did you have access to something called
18 official claims of responsibility by Hamas for these
19 attacks?

20 MR. INGERMAN: Objection.

21 THE COURT: Overruled.

22 A Yes.

23 BY MR. TURNER:

24 Q Did you have access to ISA, Israeli Security Agency,
25 reports for some of these attacks?

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1 A Yes.

2 Q Did you have access to other forms of government
3 investigation records such as police reports, ballistics
4 reports, forensics reports, photographs, things of that
5 nature?

6 A Yes, I did, of course.

7 Q And did you have access in some of these cases to
8 actual court records of arrests, convictions, and
9 confessions by Hamas?

10 A Yes, I did.

11 Q And did you have a personal opportunity to actually
12 attend some of these court proceedings where these
13 individuals from Hamas were pleading guilty?

14 A Yes, I was present in the court.

15 Q Now, there's also another source of information called
16 wills.

17 Have you had an opportunity in many of these 24 attacks
18 to actually watch video wills that were prepared by Hamas
19 before these suicide bombings were undertaken?

20 A Yes, I had the opportunity to view those wills.

21 Q And have you also had an opportunity in some of these
22 24 attacks to review written wills as opposed to video wills
23 that were actually prepared and published by Hamas for these
24 killers?

25 MR. INGERMAN: Objection.

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1 THE COURT: Overruled.

2 A Yes, I did read them.

3 BY MR. TURNER:

4 Q Now, there's another category of evidence called
5 memorializations. Can you describe to the ladies and
6 gentlemen of the jury what a memorialization of these
7 horrific events means.

8 A Sadly, Hamas does not view the suicide bombers as
9 criminals who have carried out terrible acts. On the
10 contrary, they view them as heroes who should be glorified
11 and turned into role models and praised. And that is why
12 Hamas decides to commemorate these suicide bombers in
13 various ways which I will describe before you.

14 The first stage is a funeral. It could be a real
15 funeral or a symbolic funeral held in honor, and I say in
16 honor in quotation marks, of the suicide bomber. This is
17 usually held with participation of many of the people who
18 live in the city or village, and it involves the waving of
19 flags, the chanting of slogans, the singing of songs, in
20 honor of the suicide bomber.

21 Another example involves the establishment of a
22 mourners' tent. I say mourners in quotes because they
23 actually call this a wedding. And people come to visit the
24 mother and the father to congratulate the mother and the
25 father on the terror attacks, what we would say murderous

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1 terror attacks, that were carried out or terror attack
2 carried out by their son.

3 Another example of this memorialization are posters,
4 large posters, with pictures, portraits of suicide bombers,
5 that are hung throughout the cities and villages. And
6 another example are graffiti or murals.

7 Further examples involve the naming of streets,
8 schools, and buildings after those suicide bombers. For
9 example, the central square in the city of Jenin is named
10 after Yahya Ayyash who was the first engineer of Hamas.

11 In addition to this, there are various memorialization
12 acts that are done at the universities in the Palestinian
13 territories. And in the Palestinian territories there are
14 many universities. Only in the West Bank alone, there are
15 13 universities. And this is one of those places where
16 ceremonies are held and gatherings and assemblies in memory
17 of those suicide bombers. And in the newspapers, mostly the
18 Hamas newspapers, large sections are devoted to them,
19 starting not just with the obituaries but also the story of
20 their lives. Mostly in *Al-Risala* and *Al-Qassam Yun*, which
21 are the Hamas newspapers. But not only in those, in other
22 dailies as well.

23 In addition to these, there are special television
24 programs that are devoted to the suicide bomber and these
25 are broadcast not only by the television channels of Hamas,

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1 they do have two large television channels, but they are
2 also given by others in memory of those suicide bombers.
3 They are done also by the satellite stations such as Al
4 Jazeera or other countries.

5 And also the television stations of Palestinians. A
6 well-known program is -- there was a word in Arabic,
7 laajilkum, which means for you or for your sake, in which
8 they actually glorify and praise the life and the deeds of
9 the suicide bomber.

10 With your permission, I'd just give one last example.
11 Poets and authors write books and poems including an author
12 such as Mahmoud Darwish who writes poems of hymns of praise
13 in honor of the suicide bombers. And he's the Palestinian
14 national poet. These poems are composed and are sung in the
15 Arab world including by well-known popular singers such as
16 Fayruz. If I am going to compare her, then I would compare
17 her to Tina Turner. She is that famous, and she is singing
18 those poems of praise in honor of the suicide bombers.

19 Q In these 24 attacks or at least many of them, have you
20 had access to actual posters published by Hamas?

21 A Concerning most of them, I manage to collect most of
22 the posters that actually relate to those suicide bombers.
23 These posters were disseminated by the Palestinian Society
24 mostly by Hamas. These are large posters in which they
25 actually praise and sanctify the suicide bomber.

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1 Q Have you personally attended some of these funerals or
2 weddings?

3 A I did attend a number of those funerals, and there were
4 many more cases in which I visited the mourners' tents in
5 order to see those weddings, quote/unquote, of those
6 shahids.

7 Q Now, in addition to these sources of information, have
8 you also had an opportunity on occasion to personally
9 interview some of the terrorists who committed some of these
10 24 attacks in prison?

11 A Yes. I did interview some of those terrorists that are
12 held in prison and those terrorists that carry down the
13 terror attacks about which we are talking here in court.

14 Q For instance, we're going to be talking today and
15 tomorrow about somebody by the name of Abdullah Barghouti.

16 Who is Abdullah Barghouti in the context of what we're
17 here to talk about?

18 A Abdullah Barghouti is considered to be the arch
19 terrorist. He is the engineer, the explosive engineer, that
20 caused the death of more Israelis than any other
21 Palestinian. We are talking about a terrorist that grew up
22 in Kuwait, studied in South Korea, moved to Ramallah. In
23 the course of two years built bombs that brought about the
24 death of 67 Jews and the injury of many hundreds.

25 Abdullah Barghouti was a person I met in prison. He

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1 agreed to meet and talk so that I -- and I tried to talk to
2 him in order to understand what actually drove him to that
3 killing.

4 Q Did you actually have an opportunity to videotape the
5 interview with Barghouti?

6 A Of course.

7 Q And during the course of this interview with Barghouti,
8 did you learn precisely how he would go about making these
9 bombs?

10 MR. INGERMAN: Objection.

11 THE COURT: Leading?

12 MR. INGERMAN: Objection.

13 THE COURT: Leading? Is the objection that it's
14 leading?

15 MR. INGERMAN: And 801.

16 THE COURT: Overruled.

17 A Barghouti was all too happy to describe to me how he
18 actually built those explosive vests, how he fitted them on
19 the suicide bombers, how he prepared those explosive charges
20 that he dispatched along with the terrorists into Israel
21 including those -- to those 24 terror attacks.

22 He was also delighted to describe to me how he prepared
23 the booby-trap cars that he dispatched to Israel in the aim,
24 as he declared it, and his aim was in his words was to kill
25 as many Israelis as possible.

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1 Q I want to circle back for a minute and talk about more
2 globally all of these various sources of information.

3 THE COURT: Before you do that, is this a good
4 time to take a break?

5 MR. TURNER: Sure.

6 THE COURT: All right. Let's take our afternoon
7 break, ladies and gentlemen. We'll be back here at 3:15.

8 Please do not talk about the case amongst
9 yourselves. See you shortly.

10 (Jurors exit the courtroom.)

11 THE COURT: All right. Be seated. Just so the
12 witness doesn't hear what I have to say to the lawyers, let
13 me have you over at sidebar for a minute.

14 (Sidebar conference.)

15 (Continued on the next page.)

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SIDEBAR CONFERENCE

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1 THE COURT: Just for the record, I overruled the
2 hearsay objection on the ground that I understood this to be
3 one of the bases for the expert's opinion. And I think it's
4 highly reliable in that context.

5 I do think, Mr. Turner, it would be better if you
6 make it clear that, in fact, various things he testified to
7 which might draw a hearsay objection are part of the
8 information he's relying on in reaching his opinion so that
9 the jury has the proper context under Rule 703.

10 MR. TURNER: Yes, sir.

11 THE COURT: All right. 3:15.

12 (End sidebar conference.)

13 (Continued on the next page.)

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1 THE COURT: Please bring in the jury.

2 (Jurors enter the courtroom.)

3 THE COURT: All right. Be seated, please.

4 Mr. Turner, before you begin, ladies and
5 gentlemen, I just wanted to mention to you, you're doing
6 really well focusing on the testimony, but I wanted to
7 caution you that sometimes in the late afternoon after
8 you've had lunch, you get a little sluggish, a little harder
9 to stay awake, so please give it your all and really keep
10 the focus that you've had throughout the trial.

11 Please continue.

12 MR. TURNER: Thank you.

13 BY MR. TURNER:

14 Q When we broke, Mr. Shaked, what we were beginning to
15 talk about was taking all of these various sources of
16 information and looking at them more globally.

17 And my question for you is, is there one type of
18 evidence that is more important than another type of
19 evidence?

20 A No, for me every piece of evidence is important. This
21 is why I collect all the evidence that I can collect from
22 different sources from different places and only then do I
23 weigh all of it together in order to build the entire
24 picture. It is not one piece of evidence alone, not at all.

25 Q Well, let's focus for a minute on claims of

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1 responsibility.

2 Is there a difference between an official claim of
3 responsibility and an unofficial or one just simply
4 published in the media, for instance?

5 MR. INGERMAN: Objection.

6 THE COURT: Overruled.

7 Hang on one second. You mean, difference in the
8 weight he gives it?

9 MR. TURNER: Pardon me?

10 THE COURT: Do you mean difference in the weight
11 that he gives it?

12 MR. TURNER: No. Technically, is there a
13 difference between -- in what he does, between an official
14 claim of responsibility and an unofficial?

15 THE COURT: And how he views those two kinds of
16 claims?

17 MR. TURNER: Yes, sir.

18 THE COURT: All right. Go ahead.

19 MR. TURNER: Do you want the translator to make
20 the distinction?

21 THE COURT: If she can, yes.

22 A Indeed, there are official claims of responsibility
23 there are actually determined by the leadership of the
24 organization. And these appeared in the official tools of
25 the organization by the form of a communique.

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1 In contrast to this, there are other announcements that
2 are made in an unofficial way. And these have to be
3 thoroughly examined in order to clarify the veracity before
4 issuing any conclusion, such as radio announcements or
5 anonymous announcements that are made to various news
6 agencies and other publications in unofficial tools that are
7 made in an unofficial way.

8 BY MR. TURNER:

9 Q In the course of your investigation, have you acquired
10 materials off of something called the Al-Qassam's Web site?

11 A Yes.

12 Q Is that Web site or those Web sites something that you
13 use in your profession and have used over the years in order
14 to gain information on whatever subject you were
15 researching, studying or analyzing?

16 A Yes.

17 Q And how is it that you can determine what is and what
18 is not an authentic Web site of the Al-Qassam brigade?

19 MR. INGERMAN: Objection, your Honor.

20 THE COURT: Overruled.

21 MR. INGERMAN: May we have a brief sidebar?

22 THE COURT: Sure.

23 (Sidebar conference.)

24 (Continued on the next page.)

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SIDEBAR CONFERENCE

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1 MR. INGERMAN: Your Honor, this witness has
2 testified in his deposition that he is not an Internet
3 expert. They had Mr. Kohlmann on for this. And he is not
4 qualified to testify about whether or not a particular Web
5 site is authentic or not authentic.

6 THE COURT: He has not been asked that yet. He
7 has been asked do you use information from that Web site in
8 reaching your opinions. And he's going to say yes.

9 If you want to cross-examine him on the fact that
10 he's not an Internet expert, that's fine.

11 MR. INGERMAN: That's actually not the pending
12 question, your Honor. And I can go back and look at the
13 real tone.

14 THE COURT: Well, let me look.

15 (Brief pause.)

16 THE COURT: He was asked how is it that you
17 determine what's authentic and what's not on the Web site.

18 Now, the answer to the question is the basis of
19 how he forms his opinion. It's subject to attack by you,
20 but it's just going into his process of expert evaluation.
21 That's why I overruled it.

22 MR. INGERMAN: Thank you.

23 (End sidebar conference.)

24 (Continued on the next page.)

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1 MR. TURNER: May I proceed?

2 THE COURT: Yes.

3 MR. TURNER: Do you want to read him back the
4 question.

5 (Record read as requested.)

6 A The Al-Qassam Web sites are well known and also the
7 Hamas Web sites are well known. Indeed, I am not an expert
8 on the Internet, but based on the reading of articles and
9 other materials written by other experts, I know that at
10 least the Web sites that I'm using have a very, very high
11 probability of being authentic Web sites of Hamas.

12 BY MR. TURNER:

13 Q And do you routinely in your profession rely upon the
14 information that you've gained from those Web sites in order
15 to reach conclusions?

16 A I am using these Web sites and the materials that are
17 in them, yes.

18 Q Now, in the context of these 24 attacks, have you had
19 an opportunity to prepare 24 slides that help illustrate
20 what your findings are with respect to each attack?

21 A Yes.

22 Q And do these slides have -- in fact, I think all of
23 them do -- photographs of the involved terrorists or at
24 least some of the involved terrorists?

25 A I made an effort to include the key terrorists that

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1 participated in every attack.

2 Q And did you select the photographs, the images that you
3 placed on these slides, as fair and accurate representations
4 of the person identified on the slide?

5 A Yes.

6 Q Did you, in fact, take some of the photographs of the
7 people on the slides?

8 A Yes, I personally did this, shot some of the pictures.

9 Q And can you identify as fair and accurate
10 representations all of these photographs we're about to
11 begin to look at as the individuals whose name you put under
12 each photograph.

13 A I will do that.

14 MR. TURNER: Okay. Your Honor, at this point I
15 would like to go ahead and begin going through the
16 individual attacks. The first slide will be the Neve Yamin.

17 THE COURT: All right. You may.

18 BY MR. TURNER:

19 Q Have you had an opportunity to investigate the March
20 28, 2001, gas station bombing at Never Yamin that resulted
21 in two deaths and four reported injuries?

22 A Yes.

23 Q Were you able to identify the suicide bomber?

24 A Yes.

25 Q Who was the suicide bomber?

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1 A The suicide bomber was Fadi Amer, resident of Qalqilya,
2 who we see at the bottom part of the slide.

3 Q Now, based on your investigation, did Fadi Amer carry
4 out this bombing solely and on his own or as part of Hamas?

5 A Fadi Amer carried out the attack on behalf of Hamas as
6 member of Hamas and for the organization Hamas.

7 (Continued on the next page.)
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R. SHAKED - DIRECT/MR. TURNER

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1 DIRECT EXAMINATION (Continued)

2 BY MR. TURNER:

3 Q Where is Neve Yamin?

4 A Neve Yamin is a slow gas station, but it is also called
5 the Peace Gas Station. It is not too far from Qalqilya,
6 which is an Arab town in the center of Israel.

7 Q What is the significance, if any, of this gas station?

8 A This gas station was a transportation station for
9 students who come from the center of Israel towards the
10 east, they come in the morning either driven by their
11 parents' cars or in buses; and from there, they are taken by
12 buses to their respective schools.

13 Q What did your investigation reveal about Fadi Amer's
14 background?

15 A Fadi Amer was a student in the university branch of
16 Qalqilya. He studied Islamic sciences and wanted to serve
17 Islam in the mosque of the -- as an Imam in the mosque of
18 the city.

19 He was a veteran Hamas operative. And judging by
20 testimonies given by Hamas, he was an officer in the
21 organization in Izz ad-Din al-Qassam, which is the military
22 wing of Hamas.

23 Q How did you identify Ayman Halawah in the upper
24 left-hand corner as the Hamas commander who was in charge of
25 Nablus who built the bomb?

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1 A Ayman Halawah was known from other sources and other
2 cases and other terror acts, and from the studies that I
3 conducted as a journalist and also in my studies at the
4 university, he was known to be the commander of Hamas in the
5 area of Nablus. He was the one who built the bomb, and I
6 learned this from testimonies given by Hamas and other legal
7 sources, Israel legal sources and also the ISA records.

8 Q The terrorist in the middle, Ra'ed Houtari, how were
9 you able to determine that he oversaw the attack and what
10 does that mean?

11 A Ra'ed Houtari was Hamas operative in Qalqilya. His
12 name became known after he was arrested. And that included
13 -- Hamas actually published a description of his deeds. He
14 was also arrested by the ISA and gave in his testimony
15 details about the terror, the bombing and what happened.
16 And judging by this and also other testimonies given by
17 other operatives who have linked him directly to the bombing
18 and the way by which he oversaw the terror act.

19 MR. INGERMAN: Your Honor, may I have a continuing
20 objection on the hearsay issue with respect to this witness?

21 THE COURT: As far as I'm concerned you do, yes.

22 I will advise the jury when the witness talks
23 about the things he relied upon in reaching his opinion,
24 those facts may or may not be before you through other
25 evidence. For now, he's just telling you how he got to his

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1 opinion so that you can determine how to evaluate his
2 opinion.

3 BY MR. TURNER:

4 Q The final terrorist shown on this particular slide is
5 Abd al-Rahman Hamdan. What role did Hamdan play in this
6 terrorist attack?

7 A Abd al-Rahman Hamdan was the commander of Hamas in
8 Qalqilya. He was the one who planned the attack, and he
9 dispatched the bomber to Neve Yamin.

10 Q What source of information or sources of information
11 did you use to acquire that fact?

12 A The various sources I used were, for example,
13 testimonies given in Israel court by other terrorists about
14 him. One example is Ra'ed Houtari himself, the
15 memorialization ceremonies held in Qalqilya after he was
16 killed, including large posters carrying pictures of him
17 with descriptions of the various operations that he
18 commanded. And most especially, I used materials from Hamas
19 itself that describe his various deeds in detail and the
20 various activities he carried out in the organization and
21 his involvement in the terror attack in Neve Yamin.

22 MR. TURNER: Could you show the witness only 3222?
23 Tell me when he's ready.

24 THE COURT: When you can see it, he can see it.

25 MR. TURNER: Mine comes up the same time as his?

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1 THE COURT: Yes, it does.

2 Q Can you identify what 3222 is, Mr. Shaked?

3 A Yes, I can.

4 Q And what is 3222?

5 A This is an official claim of responsibility from Hamas
6 in which it takes responsibility for the terror attack
7 carried out in Neve Yamin gas station.

8 Q What is the source of 3222?

9 A The source of the document is the site, the website of
10 the military wing of Hamas, which is called is Izz ad-Din
11 al-Qassam.

12 Q Is that the same website that you described earlier
13 that you use on a routine basis?

14 A Yes, indeed.

15 Q And is this a fair and accurate image of what was drawn
16 from the Al-Qassam's brigade's website?

17 A Yes.

18 MR. TURNER: We offer 3222 into evidence.

19 MR. INGERMAN: Objection.

20 THE COURT: Can I see counsel at sidebar for a
21 minute.

22 (Continued on the next page for sidebar.)
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SIDEBAR CONFERENCE

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1 (Sidebar conference begins.)

2 THE COURT: Isn't this the same website that
3 Coleman testified to and got into evidence over objection?

4 MR. OSEN: Yes.

5 THE COURT: So it's the same objection you made in
6 Coleman, right?

7 MR. INGERMAN: It is, with the added testimony
8 from Mr. Shaked that these are not statements against penal
9 interest. I mean, he spent five or six minutes talking
10 about how this is a glorification and they do this for the
11 owner --

12 THE COURT: I reject the argument that because
13 it's a glorification and cannot be against penal interest,
14 it can be both. It frequently is. People usually have a
15 motive for saying something that is against their penal
16 interest, besides wanting to go to jail. So they have some
17 other purpose. If inherently the declaration is against
18 their penal interest, the fact that they have some other
19 motive for making that declaration does not rob it of its
20 probative force.

21 MR. STEPHENS: I don't think that's right, your
22 Honor. If I may --

23 THE COURT: Okay. We have a disagreement on that.
24 That's my ruling.

25 But in any event, this objection was passed

SIDEBAR CONFERENCE

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1 essentially because I admitted the website.

2 MR. INGERMAN: I agree with that, I'm trying to
3 develop the record. If your Honor will give me a continuing
4 objection, I won't jump up --

5 THE COURT: I'm happy to give you a continuing
6 objection.

7 MR. INGERMAN: That's fine.

8 (End of sidebar conference.)

9 (Continued on the next page.)

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1 THE COURT: All right. The document is received
2 over objection.

3 MR. TURNER: May we display it, please.

4 (Plaintiff Exhibit 3222 was admitted into
5 evidence.)

6 BY MR. TURNER:

7 Q Okay. First of all, blow up the upper one-third all
8 the way to the end.

9 Now, first of all, do you recognize the logo,
10 Mr. Shaked?

11 A Yes, I can identify the logo.

12 Q And whose logo is that?

13 A The logo -- is the logo of the Izz ad-Din Al-Qassam
14 Brigade, the military wing of Hamas.

15 Q Can you identify the person shown in the photograph?

16 A Yes, I could.

17 Q Who is it?

18 A His name is Fadi Amer, he is the suicide bomber who
19 carried out the Neve Yamin suicide bombing.

20 Q Are there sometimes in some of these attacks what's
21 called competing claims of responsibility by other
22 organizations?

23 A Yes, indeed there are.

24 Q And how does someone like you go about evaluating the
25 authenticity of the competing claims of responsibility?

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1 A First of all, I don't -- I'm not in competition with
2 time, I'm only in competition with authentic material and
3 myself. I examine the material based on a perspective of
4 time, and especially by comparing, examining, crosschecking
5 the same material with other material. Because ultimately,
6 what we have here is just one piece out of a whole complex
7 puzzle. And in order to build a true picture, I have to
8 base myself on various sources of information.

9 Q Now, during the course of your investigation, were you
10 able to determine whether there were any competing claims
11 for the bombing at Neve Yamin?

12 A I don't recall if in the case of Neve Yamin there were
13 indeed competing claims of responsibility. But in the case
14 of Neve Yamin, Hamas only took responsibility two weeks
15 after the bombing, and there were certainly during that
16 period, various anonymous claims of responsibility.

17 Q Now, as we go through these claims of responsibility in
18 each of these 24 attacks, including in some instances
19 special reports, as you had last, are all the details in
20 these claims of responsibilities always 100 percent
21 accurate?

22 A Based on my experience, my research and my examination,
23 I have concluded that the official claims are generally
24 true, as well as other unofficial claims, they are also very
25 often true. The claims received from competing

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1 organizations or from just anyone; ultimately, in most
2 cases, turn out to be false.

3 Q Now, from a factual standpoint, does -- at least based
4 on your experience, does Hamas operate like a formal
5 military in that they are in constant communication with one
6 another about every detail at every moment?

7 MR. INGERMAN: Objection your Honor, form.

8 THE COURT: Sustained.

9 Q Based on your experience -- you might want to tell him
10 I'm going to does him a question.

11 Based on your experience in dealing with Hamas,
12 does Hamas communicate with one another, at least based on
13 your experience in reporting these attacks, on a
14 moment-by-moment basis?

15 MR. INGERMAN: Objection, same question.

16 THE COURT: Sustained.

17 Q You might want to tell him again.

18 Mr. Shaked, have you had an opportunity to read
19 3222, the claim of responsibility in this particular attack,
20 the Neve Yamin attack?

21 A Yes, I would have that opportunity.

22 Q And would you summarize for us what you learned from
23 this claim of responsibility in terms of this particular
24 attack?

25 A Firstly, I concluded that Hamas made an official

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1 statement in which it claimed responsibility for the attack,
2 and also published the name of the suicide bomber correctly.

3 I also learned from the statement about the way
4 the suicide bombing was carried out, because Hamas gave
5 details in this statement. I also learned that Hamas spoke
6 about the suicide bomber Fadi Amer as being the third in a
7 series of terror attacks that it sought to carry out, and I
8 learned this after the fact, based on this piece of
9 information.

10 Q Could you show the witness please only 3811. Can you
11 identify 3811?

12 A Yes, I can.

13 Q What is 3811?

14 A This is an ISA report in Israel summing up the actions
15 of suicide bombers from September of 2000 to September of
16 2007.

17 Q And does this ISA report include a section on Neve
18 Yamin, the attack on Neve Yamin?

19 A Yes.

20 Q And did you rely upon this particular government record
21 in reaching your findings in this particular attack?

22 A Yes, I relied on this piece of information as well in
23 addition to other testimonies.

24 Q Are these the kinds of reports that you've seen in your
25 over 40-year career at the ISA?

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1 A Yes. Indeed, this report, which sums up certain period
2 of time is typical of the types of reports that I have seen.

3 Q And does 3811, the ISA report confirm your conclusions
4 that Hamas was responsible for this attack in Neve Yamin?

5 A Yes, it does.

6 MR. TURNER: We would offer 3811 into evidence.

7 MR. INGERMAN: Your Honor, we had a prior
8 objection to that, and I think it was sustained in part and
9 ruled in part as to this document.

10 THE COURT: Oh, which part was sustained?

11 MR. INGERMAN: Do you want me to say it?

12 MR. TURNER: It is redacted further.

13 THE COURT: It's been redacted?

14 MR. TURNER: It's been redacted.

15 THE COURT: Okay. Anything else?

16 MR. INGERMAN: No.

17 THE COURT: The document is received.

18 (Plaintiff Exhibit 3811 was admitted into
19 evidence.)

20 Q Would you put up 3216.

21 Do you recognize 3216, Mr. Shaked?

22 A Yes, I do.

23 Q And what is 3216?

24 A This is a police report by a police explosives expert
25 describing the explosives charge as being a charge that is

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1 usually used by terrorist groups.

2 Q Sometimes referred to as a ballistics report?

3 A It may be called a ballistics report or an explosives
4 report, I'm not an expert on police reports, so I can't
5 really answer that question.

6 Q Is 3216 the type of police report that you've seen over
7 the years emanating from the police forces within Israel?

8 A Yes, I have indeed reviewed many such reports.

9 Q And does this particular report relate to the attack at
10 Neve Yamin?

11 A Yes, the report indeed discusses the attack at Neve
12 Yamin.

13 Q And is the information contained in 3216 consistent
14 with the other information leading you to the findings you
15 made about who carried out the terrorist attack in Neve
16 Yamin?

17 MR. INGERMAN: Objection.

18 THE COURT: Overruled.

19 A This finding helped me to reach that conclusion.

20 MR. TURNER: We offer 3216 into evidence in its
21 redacted form.

22 MR. INGERMAN: Objection, your Honor.

23 THE COURT: Same one?

24 MR. INGERMAN: Yes.

25 THE COURT: I'm not sure we're speaking the same

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1 language. It's been redacted?

2 MR. INGERMAN: I'm sorry, this is on 801.

3 THE COURT: That's what I'm asking. Overruled.

4 (Plaintiff Exhibit 3216 was admitted into
5 evidence.)

6 Q Now, in addition this information, Mr. Shaked, did you
7 also have an opportunity to investigate -- to see whether
8 there are any posters or memorialization type activities
9 that Hamas carried out on behalf of Fadi Amer?

10 A Yes, a number of things. I saw the posters in
11 Qalqilya, and that includes the posters that were hung in
12 central places in the city, and also a symbolic funeral that
13 was held in the city attended by the residents of the city,
14 and also a ceremony that was held by students and a
15 memorial, an official memorial ceremony of Hamas, in which
16 Khaled Mashal himself, the head of the political bureau of
17 Hamas, gave a speech on telephone from the mosque of
18 Qalqilya, the city in which the terrorist was born and
19 operated. And the Khaled Mashal called others to follow his
20 path, the path of Fadi Amer, the suicide bomber.

21 Q Did you also have an opportunity to investigate the
22 June 1, 2001, suicide bombing at the Dolphinarium in Tel
23 Aviv that resulted in 21 deaths and 100 plus injured?

24 A Yes.

25 Q Were you able to determine who the suicide bomber was

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1 in the Dolphinarium attack?

2 A Yes.

3 Q Who was it?

4 A Sa'id Houtari, also a resident of Qalqilya.

5 Q Was this young man also the roommate of the previous
6 suicide bomber?

7 A Indeed, sir.

8 Q Now, what was the Dolphinarium in June of 2001, so
9 everyone can understand the setting of where this attack
10 took place?

11 A The Dolphinarium was the center of entertainment in
12 Israel for young men and women. There were restaurants
13 there and entertainment centers. There was a very big
14 discotech in which many young people danced, including my
15 own son, who visited the Dolphinarium to dance and have fun.
16 The clubs served mostly young people from high schools and
17 students who would come and attend the club during the
18 weekends. They would crowd the club and just came there in
19 order to release their tension.

20 Q Did that particular attack occur during the day or
21 nighttime?

22 A This attack happened late at night, this was a Friday
23 night and many, many young people were on their way to dance
24 and have fun during the weekend.

25 Q And you prepared a slide for this particular attack as

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1 well; is that correct?

2 A Yes, I did pick out a slide.

3 Q Mr. Shaked, the top three individuals on this
4 particular slide are the same three individuals involved in
5 the Neve Yamin attack, are they not?

6 A Indeed, it is exactly the same terrorist cell that
7 perpetrated the attack in Neve Yamin.

8 Q And were you able to review a claim, an official claim
9 of responsibility by Hamas for this particular attack?

10 A Yes.

11 Q Could you put 3252 in front of just the witness,
12 please.

13 Can you identify 3252?

14 A Yes.

15 Q What is 3252?

16 A This is an official document. It is Izz ad-Din
17 al-Qassam Brigade that announces, and I read the third line
18 from the top, the hero Sa'id -- Houtari who carried out the
19 attack at the Dolphinarium, and this is an official
20 statement, an official claim of responsibility.

21 Q And was this particular exhibit taken directly off the
22 Al-Qassam Brigade's website, much like the previous one?

23 A Yes.

24 MR. TURNER: We offer 3252.

25 THE COURT: All right. Same objection?

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1 MR. INGERMAN: Yes, your Honor.

2 THE COURT: Admitted over objection.

3 (Plaintiff Exhibit 3252 was admitted into
4 evidence.)

5 Q Let's go to the slide, if you would, Mr. Miller, in the
6 translated version. If we could blow up the top half so we
7 put some of this into context.

8 First of all, the claim of responsibility, can you
9 identify the photograph on this particular exhibit,
10 Mr. Shaked?

11 A Yes, I do.

12 Q And is the date of attack likewise shown?

13 A Indeed. We do see the date.

14 Q And the logo that the red line is pointing to, can you
15 identify that logo?

16 A Indeed, I can identify the logo of the Izz ad-Din
17 Al-Qassam Brigade, the military wing of Hamas.

18 Q Now, Mr. Miller, focus on the bottom where it has the
19 attack in the translated version and it reads, "The tenth
20 messenger the hero martyr, Sa'id Hassan Hussein al-Hutari,
21 20 years old, approached the intended target calmly on
22 Blessed Friday 6/1/2001 at 11:30 p.m. according to the plan
23 and carried out his distinguished suicide attack at the
24 heart of the enemy's territory. He went to Allah's favor
25 and to his paradise to meet the profits, the martyrs, and

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1 the righteous."

2 Is that consistent, that description consistent
3 with the facts that you were able to put together as part of
4 your investigation?

5 A Yes.

6 Q Now, were there any competing claims of responsibility
7 by other -- responsibility by other terror groups for the
8 attack at the Dolphinarium?

9 A Yes. Shortly after, there were a few claims of
10 responsibility. If I'm not mistaken in this case, it was
11 the Palestinian Islamic Jihad, but they said very, very
12 quickly after the Hamas official claim of responsibility was
13 published, which ruled out every other.

14 Q Now, in addition to that material, did you also have
15 access to an Israel security agency report, again, that
16 included this particular attack?

17 A I did have the opportunity to peruse the ISA report
18 along with other records, other legal records.

19 Q We're going to look at 3811, which is already in
20 evidence. This is the ISA report that we discussed in the
21 context of Neve Yamin.

22 A Yes, it is the very same report that details many other
23 terror attacks, including the Neve Yamin and the
24 Dolphinarium.

25 Q And is the Dolphinarium attack specifically discussed

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1 in Exhibit 3811?

2 A Yes.

3 Q And are the results consistent with your findings?

4 A Yes.

5 Q Now, in addition that, there was a will prepared by
6 Mr. Houtari.

7 A Indeed, the terrorist Houtari prepared a will before
8 embarking upon his terror attack.

9 Q Did you have at some point in time access to that will?

10 A Yes.

11 Q And where did you see that particular will?

12 A Yes, I did see this will in the website of Hamas. And
13 for proper disclosure I can say that even before that, I
14 could see this in newspapers, because Hamas published it.
15 And I also read many other publications, Hamas wished to
16 make this public shortly after the attack.

17 Q With respect to memorializations, could you put 3226 on
18 the witness' screen only.

19 A Yes.

20 Q Do you recognize this particular image?

21 A Yes, I can see the picture of Houtari. And it says
22 that he is the one who perpetrated the attack in Tel Aviv on
23 this Blessed Friday, and the date appears as well.

24 Q What is the source of this particular exhibit?

25 A This is a part of a series of posters that were

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1 published in Qalqilya in various mosques in the West Bank.

2 In this case the poster was taken from the official website
3 of the Izz ad-Din al-Qassam because of the good quality and
4 the ability to present it here.

5 Q Is that the same website we've been discussing thus
6 far?

7 A Indeed, it is the same website the Izz ad-Din al-Qassam
8 Brigade turn we over.

9 MR. INGERMAN: Same objection.

10 THE COURT: All right. It's overruled.

11 MR. TURNER: Would you please display that?

12 THE COURT: Mr. Turner, as you know, I have sole
13 control of what gets displayed and not displayed.

14 MR. TURNER: I'm sorry. I thought it was put into
15 evidence already. May I display 3226?

16 THE COURT: Yes, you may. You may ask me or you
17 may ask Ms. Clarke, but it's got to be one or the two of us.

18 MR. TURNER: Thank you.

19 Q Could you blow up the top.

20 There is some writing on this poster, is there
21 not, Mr. Shaked?

22 A Indeed so.

23 Q What does that say?

24 A It says, so in Arabic al-Shaheed al-qassami, which
25 means the shaheed, the martyr, the person who perpetrated

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1 the attack, the person who died is a member of Izz ad-Din
2 al-Qassam.

3 Q When you say Izz ad-Din al-Qassam, is that the military
4 wing or so-called military wing of Hamas?

5 A Yes.

6 Q Okay. Could you back out of that now. And could you
7 go to the bottom where the writing is.

8 Could you read that, please sir?

9 A Yes. It does say after reading what it in Arabic,
10 "That this is the perpetrator of the terror attack in
11 Tel Aviv on the Blessed Friday, dated June 1st, 2001."

12 Q Is that the same date as the Dolphinarium?

13 A It was the same date.

14 Q Is that consistent with your conclusion Hamas was
15 responsible for this attack?

16 A Yes. It helps me in determining the fact that Hamas is
17 responsible for the terror attack.

18 Q Did you likewise have an opportunity to investigate the
19 August 9, 2001, bombing in Sbarro Pizzeria in Jerusalem that
20 resulted in 15 people being killed and 132 reported injured?

21 MR. INGERMAN: Your Honor, I'm going to object to
22 the form of the question.

23 THE COURT: What's wrong with the form?

24 MR. INGERMAN: I think it's loaded up with facts
25 that are not in evidence.

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1 THE COURT: Well, why don't you answer whether
2 you've had an opportunity to investigate the Sbarro bombing
3 on August 9, 2001.

4 A Yes.

5 Q How many people were killed?

6 A 15 people.

7 Q And how many people were reported injured?

8 A About 170 injured people.

9 Q Were you able to determine who the suicide bomber was?

10 A Yes, I could determine who the suicide bomber was.

11 Q And who was the suicide bomber?

12 A Yes. The suicide bomber was called Izz ad-Din
13 al-Masri, a resident of the village near Janin who was 20 or
14 21 years old.

15 Q Were you able to determine whether or not al-Masri
16 acted alone in this attack or whether he was acting on
17 behalf of Hamas?

18 A Yes.

19 Q What was your conclusion?

20 A That al-Masri on operated on behalf of Hamas as a
21 member of Hamas and for Hamas in every stage of this
22 operation.

23 THE COURT: Mr. Turner, can you finish the Sbarro
24 attack in ten minutes or do you need more?

25 MR. TURNER: I can't finish it in ten minutes.

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1 THE COURT: All right. If this is convenient
2 before he goes into the basis of his conclusion, let's break
3 up the day.

4 MR. TURNER: Yes, sir.

5 THE COURT: Ladies and gentlemen, again, I need to
6 remind you, do not discuss the case amongst yourself or
7 anyone else, stay away from any media coverage on the case,
8 do not do any research on the case, do not communicate on
9 the internet about the case, no Facebook postings or Google
10 searches of anything like that. Keep an open mind. I know
11 this is hard work, but we appreciate the fact that you're
12 doing it. Get a good night's sleep and we'll see you
13 tomorrow morning at 9:30.

14 (Jury is out of the courtroom at 4:20 p.m.)

15 THE COURT: All right. Anything else we need to
16 cover?

17 MR. OSEN: Two things, your Honor.

18 THE COURT: All right. Everyone have a seat. The
19 witness may step down.

20 THE WITNESS: Thank you.

21 (Witness leaves the witness stand.)

22 THE COURT: Mr. Osen, what do you got? And the
23 interpreters may step down, too.

24 MR. OSEN: Your Honor, first, we would request
25 that the defendant file with the Court his proposed list of

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1 order of witnesses that we discussed last Thursday.

2 THE COURT: When did you anticipate resting,
3 Wednesday?

4 MR. OSEN: I think the way things are going, the
5 end of Thursday or the beginning of Tuesday.

6 THE COURT: Okay. So when is the defendant in a
7 position to get us that list?

8 MR. STEPHENS: I sent them a list, your Honor. I
9 wasn't aware that I was supposed to be filing it with you.

10 THE COURT: That's okay, but apparently Mr. Osen
11 doesn't know he's got it.

12 MR. OSEN: No. We got three versions of the list
13 yesterday, which has been amended and re-amended, and I
14 think it's -- it would be beneficial for both us and the
15 Court to have one actual list.

16 THE COURT: Well, let's file the last -- I assume
17 the last one is the current, good faith effort, so let's
18 file that and then I'll have it, too.

19 MR. STEPHENS: All right.

20 THE COURT: You had something else, because I
21 thought of one.

22 MR. OSEN: Sorry, your Honor. With respect to
23 excerpt seven through nine, which have been now been
24 submitted and counter designated, we have some significant
25 issues with it apart from the rule of completeness issue

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1 that have terminated this, and I don't know if it would be
2 most effective if we just filed a letter this evening on it.
3 Obviously, it won't get played until Wednesday at the
4 earliest, but we'd like to be able to address certain issues
5 that impact the Rule 37 issues and the like.

6 THE COURT: Well, I'd like to see the letter early
7 this evening, as early as possible. I understand it's
8 already 4:30, do the best you can.

9 MR. OSEN: Okay.

10 THE COURT: Now, I have one other thing which may
11 bear on what you're talking about. Did have you something
12 else, Mr. Stephens?

13 MR. STEPHENS: No, your Honor, I'm just standing.

14 THE COURT: Here's where I am ruling on compliance
15 and industry standard evidence that the defendant wants to
16 put in. I am inclined to allow that evidence in reasonable
17 form, not in exhaustive exploration of every compliance
18 technique that the bank has. However, if the bank does
19 that, then I think consistent with the sanctions order, I
20 would instruct the jury that they may only consider such
21 evidence with regard to the Hamdan account. Because as I
22 understand, and maybe the parties will tell me something
23 differently, that is the only account in which the bank has
24 produced full documentation.

25 My concern, and I think there is no point in

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1 obscuring what I think the bank strategy is here, is that
2 the bank is introducing all this compliance and industry
3 standards so that there will be an unspoken inference that
4 the jury may be permitted to draw that, in fact, the bank
5 didn't know that these were terrorist accounts. And I think
6 the bank cannot do that. I understand the line that it's
7 trying to walk to say well, we won't argue that to the jury,
8 because the sanction order precludes us from doing it. But
9 unrestricted compliance and industry standard evidence, in
10 my view, would allow that inference to be drawn by the jury
11 on its own and really serves no function other than to obey
12 the sanctions order, except as to the Hamdan account, in
13 which records have been produced.

14 So if the defendant wants to go down that road, I
15 will allow it, but I will also make it clear to the jury
16 that it does not apply to any of the accounts for which
17 documentation and testimony was not produced. Am I clear?

18 MR. OSEN: Yes, your Honor. I would just point
19 out that part of the issue that comes up in these
20 designations for seven, eight, and nine is that it addresses
21 policies and procedures in counts and areas where we don't
22 have the records, and I think it's very hard for the jury at
23 this point to be able to figure out what was produced and
24 what wasn't produced and so on.

25 So, for example, your Honor, they have made a

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1 great deal about the fact that they filtered transactions
2 through OFAC in New York. The jury has no way of knowing
3 that they only produced New York records and not the records
4 of the account holders in Gaza.

5 THE COURT: Yeah. If the defendant cannot tie
6 those compliance procedures strictly to the Hamdan account,
7 which I don't see how they could in New York, then I won't
8 admit that evidence. That's the only account as to which
9 I'm letting in compliance evidence. Okay?

10 MR. STEPHENS: I'm sorry, maybe I'm -- what is
11 compliance evidence?

12 THE COURT: Testimony from an expert or fact
13 witness that the bank had certain procedures to help it
14 detect the existence of terrorist accounts. I think you
15 know what that is.

16 MR. STEPHENS: What's that?

17 THE COURT: I think you knew what that was. It's
18 what we've been discussing in the earlier point of the case;
19 evidence with compliance with internal procedures and the
20 meaning of industry standards in the banking industry
21 internationally in order to show that the bank would have
22 picked up unauthorized accounts. I will not allow that
23 except as to the Hamdan account.

24 MR. STEPHENS: I think the order by Judge Gershon
25 allowed testimony as to international banking standards.

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1 THE COURT: It allowed it. To the extent it was
2 allowed by the sanctions ordered, and now what I've got to
3 do is make them mesh. And the way they mesh is you can't
4 use the compliance industry standard evidence to show or
5 suggest or even allow the jury to infer that, in fact, these
6 procedures would have identified accounts other than the
7 Hamdan accounts as unauthorized or improper accounts. I'm
8 not going to allow that. If you want to put in evidence
9 related to the Hamdan account, that's fine. I am correct,
10 am I not, that the defendant did not produce documentation
11 for any of the subject accounts other than the Hamdan
12 account, right?

13 MR. OSEN: Bits and pieces, your Honor, but not
14 full records, so...

15 THE COURT: Anything for which an exemption from
16 production was claimed cannot be the subject of compliance
17 or industry standard testimony.

18 MR. OSEN: Your Honor, one more corollary to that
19 is designated testimony. And it could be, I guess in their
20 case in chief, where they testify about the financial
21 neediness of beneficiaries without the benefit of either
22 knowing or having the records or even of the witnesses
23 knowing the underlying information.

24 THE COURT: Well, I'll think about that. I've not
25 considered that at this stage. There is something to what

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1 you say, and I'll think about that overnight and I'll let
2 you know in the morning.

3 MR. OSEN: Okay. It will be in our letter as
4 well.

5 THE COURT: All right. Anything else?

6 MR. INGERMAN: We'd like an opportunity to respond
7 to whatever they write, your Honor.

8 THE COURT: Of course. The sooner you do it, the
9 sooner I will consider both responses. They have their's to
10 me by eight and get yours to me by ten, I'll be up on it by
11 tomorrow morning. I think it's not necessarily a today
12 issue, I think it's mostly an issue for the defendant's
13 case; although, I don't know what is going to be designated
14 in the cross designation. As I said, this ruling may
15 overlap the issue, so...

16 MR. OSEN: The reason we raise it now is obviously
17 we put a lot of strain on our IT people to cut the tapes for
18 the actual presentation. Obviously, they have counter
19 designated enormous counties of materials again on these
20 subjects, so we'll get in our letter as soon as we can, once
21 we leave here. Hopefully, the defendant can get it in today
22 and hopefully we'll have time to cut it for Wednesday or
23 early Thursday.

24 THE COURT: All right. Everyone is doing the best
25 they can.

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1 Okay. Thank you very much. See you in the
2 morning. Mr. Osen, I need your exhibits like now, okay.

3 MR. OSEN: Yes, your Honor.

4 (Proceedings adjourned at 4:30 p.m.)

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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3	COURTNEY LINDE, ET AL.,)	
4)	04CV02799 (BMC)
5	Plaintiffs,)	And all related cases:
6)	04CV05449 (Litle)
7	-against-)	04CV05564 (Almog)
8)	04CV00365 (Coulter)
9)	05CV00388 (Afrait-Kurtzer)
10)	05CV03183 (Bennett)
11)	05CV03768 (Roth)
12)	06CV01623 (Weiss)
13)	
14)	United States Courthouse
15)	Brooklyn, New York
16	ARAB BANK, PLC,)	
17)	TUESDAY, AUGUST 26, 2014
18	Defendant.)	
19)	

TRANSCRIPT OF CIVIL CAUSE FOR JURY TRIAL
BEFORE THE HONORABLE BRIAN M. COGAN
UNITED STATES DISTRICT JUDGE

APPEARANCES:

20	FOR PLAINTIFFS LINDE	OSEN, LLC
21	AND COULTER:	BY: GARY M. OSEN, ESQ.
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23		TURNER & ASSOCIATES, PLLC
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32		MOTLEY RICE, LLC
33		BY: MICHAEL E. ELSNER, ESQ.
34		BY: JODI FLOWERS, ESQ.

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(APPEARANCES CONT.)

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Proceedings recorded by mechanical stenography, transcript
produced by computer-assisted transcript.

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1 (Outside the presence of the jury.)

2 THE COURT: Let's have the jury, please.

3 (In the presence of the jury.)

4 THE COURT: All right. Be seated. Good morning,
5 ladies and gentlemen.

6 THE JURORS COLLECTIVELY: Good morning.

7 THE COURT: I want to express my appreciation to
8 both the lawyers and the jury for being so prompt in this
9 case. I will tell you, many, if not most, cases, when I say
10 we're going to start at a certain time, either the lawyers, or
11 the jury or both think, well, the judge really means 10 or
12 15 minutes later, and I really don't. And I have to patiently
13 explain that to everyone, and I haven't had that in this case,
14 so thank you all for moving things along as quickly as
15 possible. Let's resume examination. We'll have the witness
16 back.

17 MR. TURNER: May the translators come up?

18 THE COURT: Sure. These translators look different.
19 I say that because I think they need to be sworn.

20 Have a seat, Mr. Shaked.

21 THE CLERK: Raise your right hand. Do you solemnly
22 swear or affirm that you will well and truly interpret the
23 proceedings before this Court in this case.

24 THE INTERPRETER 1: I do.

25 THE INTERPRETER 2: I do.

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1 THE CLERK: Please state and spell your name for the
2 reporter.

3 THE INTERPRETER 1: Neri Sevenier, N-e-r-i,
4 S-e-v-e-n-i-e-r.

5 THE INTERPRETER 2: Michal, Marin, M-i-c-h-a-l,
6 M-a-r-i-n.

7 THE CLERK: Thank you. Be seated.

8 THE COURT: All right. Mr. Turner, you may inquire.

9 MR. TURNER: Thank you, your Honor.

10 RONNI SHAKED,
11 having been previously duly sworn, was examined, and testified
12 further as follows:

13 DIRECT EXAMINATION (CONTINUED)

14 BY MR. TURNER:

15 Q Where we left off yesterday, we were beginning to talk
16 about the Sbarro Pizzeria bombing, in August of 2001.

17 MR. TURNER: Is it permissible to put the slide up,
18 your Honor?

19 THE COURT: Sure. Do you want the lights dim?

20 MR. TURNER: No, sir. We're fine.

21 Q Mr. Shaked, did you have an opportunity to conclude who
22 was the suicide bomber at the Sbarro Pizzeria in Jerusalem, in
23 August of 2001?

24 A Yes.

25 Q What was the suicide bomber's name?

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1 A Az a din Masri.

2 Q Were you able to determine whether he acted alone or
3 whether he was acting for and on behalf of Hamas?

4 A On behalf of Hamas.

5 Q Now, before we talk about the other individuals that you
6 concluded were involved in this particular attack, can you
7 give us not idea of where Sbarro Pizzeria in Jerusalem is?

8 A This pizzeria is at the center of the city of Jerusalem,
9 the heart of the city, in a junction between two main streets.
10 And if I could compare it on a smaller scale, it might be
11 compared to Times Square in New York.

12 Q Where is your office -- or where was your office in
13 relation to Sbarro Pizzeria, at the time, in Jerusalem?

14 A About 200 meters away.

15 Q Were you at the office at the time of this bombing?

16 A I was.

17 Q Did you hear the bombing?

18 A I heard it.

19 Q Did you see smoke from the bomb?

20 A I seen the smoke that came out from that place.

21 Q Did you feel the bomb?

22 A I felt the tremor in the building.

23 Q Did you go to the scene?

24 A I went there as fast as I could.

25 Q Approximately how long did it take you to get there after

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1 you heard, felt and saw the smoke from the bomb?

2 A It took a very short time; perhaps two or three minutes.

3 Q Now, going back to your chart just a moment, again, the
4 third attack in a row, Ayman Halawa was involved in this
5 attack, according to your chart. What role did Ayman Halawa
6 play?

7 A Ayman Halawa was the Hamas commander Nablus, and he was
8 the one who authorized the bombing.

9 Q And on the upper right, you have somebody named Adwan.
10 What role did Adwan play in this particular attack?

11 A Qeis Adwan was the Hamas commander in the Jenin area, and
12 he was the man who recruited the suicide bomber.

13 Q And this Abdullah Barghouti is shown in the middle. Is
14 that the same Barghouti we talked about earlier yesterday?

15 A It is the same Barghouti.

16 Q And what was his role in this particular attack?

17 A Barghouti was a Hamas engineer, and he built the bomb
18 that exploded.

19 Q Is Abdullah Barghouti the one you interviewed personally
20 in prison?

21 A Yes, I interviewed him.

22 Q This particular bomb at Sbarro Pizzeria, were you able to
23 determine how the bomb was delivered to the sight? In other
24 words, was it a belt? Was it a vest? Was it a briefcase?
25 What was it?

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1 A No, it was not a belt. It was not a suitcase. One was
2 put inside a guitar to camouflage it.

3 Q How do you know that?

4 A I determined this on the basis of different findings,
5 testimonies from Hamas, testimonies of organizations within
6 the state of Israel; findings in the scene, and in particular
7 the personal interview awarded to me by the participants.

8 Q Were you able to cross-check the various sources of
9 information in order to confirm the delivery system for the
10 bomb?

11 A Of course, I did.

12 Q Is cross-checking important when you're doing the type of
13 thing you were doing in this particular instance?

14 A Cross-referencing is extremely important, to make sure
15 that all the details are known accurately and all the way.

16 Q Now, on the right-hand side of your slide, there's a lady
17 shown, Ahlan Tamini. Am I pronouncing that correctly?

18 A There is a picture of a lady, and her name is Ahlan
19 Tamini.

20 Q What role did Tamini play in this particular terrorist
21 attack?

22 A Tamini led the suicide bomber. She found the place where
23 he was supposed to explode, she accompanied him to that place
24 and pointed it out for him.

25 Q Now, based upon your investigation, was Tamini's role in

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1 this particular attack, the fact that a woman was involved,
2 was that significant in your investigation?

3 A Yes, it was important role.

4 Q Why?

5 A Because in order to hide the suicide bomber, and to get
6 into the western part of Jerusalem, it was necessary to create
7 a sort of image of the couple getting strong (phonetic) in
8 Jerusalem. Tamini did dress in a free way, with a
9 short-sleeved shirt and led the suicide bomber as if he was
10 her spouse.

11 Q Now, there's an individual in the middle of the slide,
12 Muhammad Daghlās. What role did Daghlās play?

13 A Muhammad Daghlās supplied means; for example, renting an
14 apartment and also created the contact with whom Tamini, whom
15 he had recruited.

16 Q And, finally, Bilal Barghouti. Was Bilal Barghouti
17 related to Abdullah Barghouti?

18 A Yes, he is his uncle.

19 Q And what role did Bilal Barghouti play in this particular
20 attack?

21 A He -- Bilal is a senior Hamas operative, and he put the
22 bomb inside the guitar and gave it to the suicide bomber. He
23 adapted the guitar to the suicide bomber.

24 MR. TURNER: Now, let's take a look -- if you could
25 show the witness only, 3324.

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1 Q We're going to talk for a minute, Mr. Shaked, about the
2 sources of information you had available for this particular
3 attack. First of all, do you recognize 3324?

4 A Yes.

5 Q Is this the official claim of responsibility by Hamas for
6 the attack in Sbarro Pizzeria in Jerusalem?

7 A Yes, this is the official claim of responsibility by
8 Hamas.

9 Q What is the source of this official claim of
10 responsibility?

11 A This is from the official site of ad-Din al-Qassam
12 Brigade, the military arm of Hamas.

13 MR. TURNER: We offer 3324 into evidence.

14 THE COURT: Same objection?

15 MR. INGERMAN: Yes, your Honor.

16 THE COURT: Received over objection.

17 (Plaintiffs' Exhibit 3324 was received in
18 evidence.)

19 MR. TURNER: Let's put that up.

20 THE COURT: Okay.

21 MR. TURNER: I believe we have a slide. Mr. Miller,
22 can you focus in on the English translation on the right-hand
23 side, please, and primarily the description.

24 Q Now, this indicates a military proclamation by the Martyr
25 Izz ad-Din al-Qassam Brigades. Is that Hamas?

SHAKED - DIRECT - TURNER

1058

1 A Indeed, it is Hamas. It is the military arm of Hamas.

2 Q There's a sentence that says by the grace of Allah and

3 his assistance, the holy warrior of al-Qassam: Izz ad-Din

4 Shuhayl Ahmad al-Masri from the village of Aqabah in the

5 al-Qassam Governorate of Jenin has carried out today;

6 Thursday, August 9, 2001, 19th of Jumada al-Ula, 1422 Hijri -

7 at noon, an act of martyrdom in the middle of -- it says

8 Sbarro Restaurant, in the heart of occupied Jerusalem.

9 What does that tell you about whether or not the

10 suicide bomber was acting for and on behalf of Hamas,

11 Mr. Shaked.

12 A For me, this is an official announcement, a claim of

13 responsibility by Hamas for the Sbarro bombing.

14 Q Is the picture of al-Masri on the official claim of

15 responsibility the same photograph that you have shown on your

16 slide?

17 A Yes, indeed, this is a suicide bomber.

18 Q So the two photographs are the same person?

19 A Yes.

20 Q Now, did you have access to an Israeli Security Agency

21 report that summarized this attack as well?

22 A Yes.

23 MR. TURNER: Your Honor, this is already in

24 evidence. May we display 3811?

25 THE COURT: You are.

SHAKED - DIRECT - TURNER

1059

1 MR. TURNER: Now, this is a particular section out
2 of Exhibit 3811 that pertains to the Sbarro Pizzeria attack.
3 Can you blow that up at all for us?

4 Q Now, did the ISA, the Israeli Security Agency, identify
5 the same suicide bomber as you?

6 A Yes.

7 Q And did the Israeli Security Agency also identify Bilal
8 Barghouti and Muhammad Daghlal as participants in this
9 particular attack?

10 A Yes, sir.

11 Q And how about Abdulla Barghouti?

12 A He was also identified.

13 Q Now, in this particular attack, did you also have access
14 to actual conviction records in the court system within
15 Israel, where the participants were convicted of these crimes?

16 A Yes.

17 MR. TURNER: May we show Mr. Shaked only 3301,
18 please.

19 Q Can you identify 3301?

20 A I do identify it.

21 Q And what is 3301?

22 A This is actually the verdict regarding Ahlan Tamini and
23 her involvement in the terror attack, in the cafe.

24 MR. TURNER: We offer 3301 as a possible conviction
25 of Tamini for this particular attack.

SHAKED - DIRECT - TURNER

1060

1 MR. INGERMAN: Same objection.

2 THE COURT: All right. Overruled. It is received.

3 (Plaintiffs' Exhibit 3301 was received in
4 evidence.)

5 Q Would you show Mr. Shaked 3300. Do you recognize 3300?

6 A Yes.

7 Q What is 3300?

8 A This is a decision regarding Muhammad Daghlis by the
9 court which issued his sentencing.

10 MR. TURNER: We offer 3300 as conviction of Daghlis
11 for his role in the bombing.

12 THE COURT: Just so the record is clear, you're
13 objecting to the Apostille documents as well?

14 MR. INGERMAN: Yes, your Honor.

15 THE COURT: That's overruled as received.

16 (Plaintiffs' Exhibit 3300 was received in
17 evidence.)

18 MR. TURNER: Put up 3205, please.

19 Q Do you recognize 3205?

20 A Yes.

21 Q What is 3205?

22 A This is also the sentencing that was issued by the court
23 to the terrorists who had perpetrated the attack at Sbarro.

24 MR. TURNER: We offer 3205 as an Apostille
25 conviction of Bilal Barghouti.

SHAKED - DIRECT - TURNER

1061

1 THE COURT: That's received over objection.

2 (Plaintiffs' Exhibit 3205 was received in
3 evidence.)

4 Q I would you show the witness 3336, please. Do you
5 recognize 3336?

6 A Yes.

7 Q What is 3336?

8 A This is the sentencing that was issued to Abdulla
9 Barghouti.

10 Q This particular document is not Apostille. Were you in
11 attendance at the trial, Mr. Shaked?

12 A Yes, I did attend the trial, and I was also there when
13 the sentencing was read out.

14 Q So you were personally present in the room at the time of
15 the sentencing?

16 MR. INGERMAN: Objection.

17 THE COURT: Overruled.

18 THE WITNESS: Yes.

19 Q And was Abdulla Barghouti required to allocute or explain
20 his role in the terrorist attack?

21 A Abdulla Barghouti did speak up, and said what he had to
22 say and gave his excuses for perpetrating this attack before
23 the sentencing was read.

24 Q After the sentencing, did you obtain a copy of 3336,
25 which you're looking at on the screen?

SHAKED - DIRECT - TURNER

1062

1 A Yes, I did receive.

2 Q And is 3336 a fair and accurate representation of what
3 you heard in the courtroom and also received from the court on
4 the day of Abdulla Barghouti's sentencing?

5 A Yes.

6 MR. TURNER: We offer 3336.

7 THE COURT: Same objection?

8 MR. INGERMAN: Yes, your Honor.

9 THE COURT: It's overruled. The document is
10 received.

11 (Plaintiffs' Exhibit 3336 was received in
12 evidence.)

13 Q Now, let's move to memorialization. Did you have an
14 opportunity to examine any evidence indicating that Hamas
15 actually put on the ceremony for this particular suicide
16 bomber, Mr. Shaked?

17 A Yes.

18 MR. TURNER: Would you show the witness 3306,
19 please?

20 Q Do you recognize 3306, Mr. Shaked?

21 A Yes, I do.

22 Q What is 3306?

23 A Yes, this was an ad or some kind of announcement in the
24 newspaper issued by the Hamas which invites --

25 MR. INGERMAN: Objection, your Honor.

SHAKED - DIRECT - TURNER

1063

1 THE COURT: Just describe it generically.

2 THE WITNESS: This is an ad from a newspaper that
3 invites the public to attend a ceremony in memory of the
4 suicide bomber.

5 Q Did you use this particular piece of information in
6 trying to answer the question of what evidence exists
7 connecting Hamas to the suicide bomber?

8 A Yes.

9 Q Is this one of the types of information you used to
10 cross-check your sources in your methodology?

11 MR. INGERMAN: Objection. Form.

12 THE COURT: Overruled.

13 THE WITNESS: Yes.

14 Q Is the word "Hamas" in the invitation?

15 A The word "Hamas," indeed, appears there, as well as the
16 emblem of the Hamas appear on the publication.

17 Q Does the suicide bomber's name appear on the invitation?

18 A Yes, the name of the suicide bomber also appears there.

19 Q And what is the source of the newspaper?

20 MR. TURNER: We offer 3306.

21 THE WITNESS: This is a paper, a Palestinian
22 newspaper, an ordinary one, which is circulated regularly
23 within the Palestinian society. It is called El Ayaam.

24 MR. TURNER: Excuse me. I apologize. We offer
25 3306.

SHAKED - DIRECT - TURNER

1064

1 MR. INGERMAN: Objection.

2 THE COURT: Let me see counsel at sidebar.

3 (Sidebar held outside the presence of the jury.)

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Sidebar

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1 (Sidebar)

2 THE COURT: I think I'm going to admit the document
3 with a limine instruction that the jury is not to consider it
4 for the truth of what it asserts, but only as one of the
5 sources of information that the expert considered in reaching
6 his opinion so that it can determine how much weight to give
7 to his opinion. In doing that, I'm not inclined to send it
8 into the jury room with the other exhibits when they
9 deliberate, although I might give it to them if they ask for
10 it during deliberations. I take it that does not satisfy your
11 objection?

12 MR. INGERMAN: It does not, your Honor.

13 THE COURT: That's my ruling.

14 (Sidebar concluded.)

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SHAKED - DIRECT - TURNER

1066

1 (In the presence of the jury.)

2 THE COURT: We have a technical timeout.

3 Ladies and gentlemen, I'm going to receive this
4 exhibit for the limited purpose of helping you evaluate this
5 witness' opinion. You are not to take the matters stated in
6 this newspaper article as true, but they are something that he
7 relied upon in reaching his opinion, and it's his opinion that
8 you're going to have to evaluate.

9 You may proceed.

10 MR. TURNER: May we put the translated version on
11 the screen?

12 THE COURT: You may.

13 Q Mr. Shaked, take a moment, if you would, and read through
14 that to yourself. And what I need for you to tell us is why
15 is this significant if you're evaluating the relationship
16 between Hamas and the suicide bomber at the Sbarro Pizzeria,
17 in terms of their relationship?

18 Now, this word has referenced several times in there
19 called ishdishotti (phonetic). What does that mean,
20 ishdishotti (phonetic)?

21 THE INTERPRETER: I didn't translate the answer.

22 MR. TURNER: I'm sorry.

23 THE WITNESS: The way I read it, this is not just --
24 this is not about the death of a person, but, rather, this is
25 a wedding, and it is also emphasized that the entity which

SHAKED - DIRECT - TURNER

1067

1 invites to this wedding is Hamas movement in Jenin, the Qassam
2 brigade, which are the military arm, and this shows us a
3 direct link between the person, Izz ad-Din Masri, and the
4 announcement and the ceremony.

5 Q Now, going back to the question I asked a moment ago,
6 this word ishdishotti (phonetic), what does this mean?

7 A In Arabic this means the person who dies for the sake of
8 Allah. This is somebody that it is no coincidence, his death.
9 He dies during the perpetration of a terror attack for the
10 sanctity of Allah. In this case, this was a suicide bombing.
11 He's not just -- he doesn't just die, he's actually looking
12 for death.

13 Q Now, finally, in addition to the other sources of
14 information, is this one of those attacks where you had an
15 opportunity to actually interview some of the people involved
16 in this particular attack?

17 A Yes, I did have a chance to interview some of the people;
18 Abdulla Barghouti, Bilal Barghouti, Muhammad Daghlis and Ahlan
19 Tamini.

20 Q Now, in communicating with these individuals, did they
21 openly communicate with you about the details associated with
22 this bombing and their interaction with one other?

23 A Yes, they spoke very openly, and I would even say that
24 they were happy and willing to discuss it.

25 Q And in your communications with Abdullah Barghouti, did

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1068

1 he provide you with details about the bomb itself that you
2 were able to cross-check through other sources to confirm?

3 MR. INGERMAN: Objection, your Honor.

4 THE COURT: Overruled.

5 THE WITNESS: Yes, Abdulla did provide details to
6 me.

7 Q Were you able to also interview the mother of the suicide
8 bomber?

9 A Yes, I did interview both the mother and the father of
10 the suicide bomber.

11 Q And did you videotape that particular interview?

12 A Of course, I did.

13 Q And that particular video is marked as 3285. Mr. Shaked,
14 during the course of that interview, did you receive
15 information that helped you cross-check some of the details
16 about the relationship between Hamas and the suicide bomber?

17 A Yes.

18 Q And did that information further lead you to conclude
19 that your analysis was correct?

20 A Yes.

21 Q Did you also have an opportunity to investigate the
22 bombing at Ben Yehuda in December of 2001, at approximately
23 11:30 at night?

24 A Yes.

25 Q How many people were killed in this particular attack?

SHAKED - DIRECT - TURNER

1069

1 MR. TURNER: May we put the slide up by the way,
2 your Honor?

3 THE WITNESS: Eleven people were killed.

4 Q And how many were reported to be injured in this
5 particular terrorist attack?

6 A One hundred and fifty-eight people.

7 Q Were you able to identify during the course of your
8 investigation who the suicide bombers were in this particular
9 attack?

10 A Yes.

11 Q And who were the suicide bombers?

12 A Two suicides bombers were in Nabil Halabiya and Osama
13 Bahar.

14 Q Were you able to determine whether they were acting alone
15 or whether they were acting for Hamas in this attack?

16 A Both of them acted on behalf of Hamas, for Hamas and as
17 members of Hamas.

18 Q First of all, just to sort of place the setting as a
19 background, where's Ben Yehuda in Jerusalem?

20 A Ben Yehuda is a strip in the center of Jerusalem, a
21 pedestrian street, with coffee houses, with restaurants and a
22 large shopping center.

23 Q Where in relation to your office is Ben Yehuda?

24 A Like 50 meters. A few step.

25 Q Were you at the office at 11:30 at night, on

SHAKED - DIRECT - TURNER

1070

1 December 1, 2001, at the time of the Ben Yehuda bombing?

2 A No, it was towards midnight. I was not there.

3 Q How quickly after the attack did you learn of the attack?

4 A A few minutes after the bombing, I was already on my way
5 there.

6 Q Can you give us an estimate of approximately how long it
7 took you to get to the scene of the terrorist attack at
8 Ben Yehuda?

9 A I would say 15 to 20 minutes, at the most.

10 Q Now, your chart indicates that Abdullah Barghouti again
11 was involved in this particular attack. Were you able to
12 confirm that in your interview with Barghouti?

13 A Yes, I could confirm that in an interview.

14 Q You have a terrorist on here named Jamal Al-Tawil. What
15 was his role in this particular attack and who was he?

16 A Jamal Al-Tawil is, in fact, a Hamas leader. He was
17 responsible for Al-Islah, the charity of Ramallah, of Hamas in
18 Ramallah; and he was the one who connected between the suicide
19 bombers and the senior commander of Hamas, Ibrahim Hamel.

20 Q So the jury understands sort of understands where
21 Ramallah is in relation to Jerusalem, how far is Jerusalem
22 from Ramallah?

23 A Ramallah is north of Jerusalem, at a distance of,
24 perhaps, 15 or 20 kilometers, which is 12 or 13 miles.

25 Q At the time, was Ramallah considered to be part of the

Sidebar

1071

1 West Bank?

2 A Yes, Ramallah is part of the West Bank.

3 Q Your slide indicates that Al-Tawil was the chairman of
4 Al-Islah Charitable Society. What was the Al-Islah Charitable
5 Society at the time of this attack?

6 A This society was established in order to create dowa
7 (phonetic), which means to help Hamas economically,
8 financially, Hamas, with all its arms and parts.

9 MR. INGERMAN: Your Honor, may we approach?

10 THE COURT: Yes.

11 (Sidebar held outside the presence of the jury.)

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Sidebar

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1 (Sidebar)

2 MR. INGERMAN: Your Honor, I think this is beyond
3 the scope of his opinion and expert report. Al-Islah is not
4 mentioned anywhere in his expert report. Now, he's going
5 beyond that, into whether or not sekot (phonetic) is part of
6 Hamas. And they're trying to bootstrap into his testimony
7 something that's beyond the scope and was not presented, and I
8 would move to strike the testimony.

9 MR. OSEN: Jamal Tawil is in the report. He's
10 always been there. He's been identified both in Mr. Levitt's
11 testimony and in Mr. Shaked's. I don't think Mr. Turner
12 intends to go beyond the question he offered, but he's
13 entitled to identify who the cutout between the bombers and
14 Mr. Hamed was.

15 THE COURT: I think it's within his opinion so far.
16 If you were to go where counsel says he doesn't want you to
17 go, then I agree it would exceed the bounds of his opinion,
18 but we're not there yet. Please be sensitive to that.

19 (Sidebar concluded.)

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SHAKED - DIRECT - TURNER

1073

1 (In the presence of the jury.)

2 MR. TURNER: May I proceed?

3 THE COURT: You may.

4 MR. TURNER: Were you through reading back his
5 answer?

6 THE INTERPRETER: I'm sorry?

7 MR. TURNER: Were you through reading back his
8 answer?

9 THE INTERPRETER: Yes.

10 Q Now, on the opposite side of your slide is terrorist by
11 the name of Sayd Qasem. What was his role in this particular
12 attack?

13 A Sayd Qasem is the deputy commander of Hamas in Ramallah,
14 and he was the one who transferred the bomb to the hands of
15 the bombers.

16 Q At the top of the screen is a person by the name of
17 Ibrahim Hamed. Who was Ibrahim Hamed?

18 A At that time, Ibrahim Hamed was the commander of Hamas in
19 Ramallah, the senior commander, and he was the one who planned
20 the attack.

21 MR. TURNER: Would you put before the witness 3366,
22 please.

23 Q Can you identify 3366?

24 A Yes, I can.

25 Q What is 3366?

SHAKED - DIRECT - TURNER

1074

1 A This is an official claim of responsibility by Hamas for
2 the suicide bombing in Ben Yehuda.

3 Q What is the source of 3366?

4 A The official site of the military arm of Hamas.

5 Q By site, are you referring to website, as we referred to
6 earlier?

7 A Yes.

8 MR. TURNER: We offer 3366.

9 THE COURT: Same objection?

10 MR. INGERMAN: Yes, sir.

11 THE COURT: Overruled. It is received.

12 (Plaintiffs' Exhibit 3366 was received in
13 evidence.)

14 MR. TURNER: May we place it on the screen?

15 THE COURT: You may.

16 MR. TURNER: Can you blow up the picture, please?

17 Q Can you identify that photograph that's in the official
18 claim of responsibility on Hamas' al-Qassam website?

19 A Yes.

20 Q Which one of the suicide bombers is that a picture of?

21 A We see the picture of Ibrahim Hamel in here.

22 MR. TURNER: If you can back out, please, and go
23 down to the script. We have a translated version. Can you go
24 to the English version, please. And if you could, blow up the
25 description in the bottom.

SHAKED - DIRECT - TURNER

1075

1 Q If you can take a moment and read through that,
2 Mr. Shaked, what I would like for you to do is confirm for us
3 the facts that you were able to learn from this official claim
4 of responsibility, with respect to the question of whether
5 Hamas was responsible for this attack.

6 A Indeed, yes.

7 Q All right. If you could --

8 MR. TURNER: Your Honor, may we display 3811 again?
9 This is the Israeli Security Agency report that's already in
10 evidence.

11 THE COURT: Yes.

12 MR. TURNER: And if you can go to the page that
13 makes reference to the Ben Yehuda bombing. Now, if you could
14 blow up maybe the first half of that.

15 Q Now, first of all, did the ISA confirm the identity of
16 the two suicide bombers, as you have described?

17 A Yes, it did.

18 Q Did the ISA also confirm the involvement of Hamas in this
19 particular attack?

20 A Yes.

21 Q Were you able to use this as a method of cross-checking
22 your other sources to confirm that Hamas was, in fact,
23 responsible for this attack?

24 A Yes.

25 Q Now, in addition to the ISA report, did you also have

SHAKED - DIRECT - TURNER

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1 access to other government investigatory records related to
2 the Ben Yehuda attack?

3 A Yes.

4 Q Now, in this particular attack, Mr. Shaked, was there one
5 bomb, or were there more than one bomb?

6 A In this particular attack, there were three bombs.

7 Q And can you explain what you learned during the course of
8 your investigation about how this bombing was planned in this
9 central location?

10 A The two terrorists came in a car, which they parked near
11 the site of the bombing. They stepped down. One of them put
12 on an explosive vest; the other one was carrying a big
13 computer inside, which there was an explosive charge, one of
14 them doing so far first. Two minutes afterwards, the other
15 one blew himself up. And 11 minutes later, the booby-trapped
16 car exploded. The intention was to cause a maximum number of
17 casualties.

18 Q During the course of your investigation of this
19 particular attack, were you able to determine why the delay in
20 the third bomb going off was planned the way it was?

21 A Yes, it turned out that Hamas asked them to wait a few
22 minutes, until the first responders arrived, until people
23 gathered in that place, and then the explosion could cause
24 many more casualties.

25 MR. TURNER: Put in front of the witness 3457,

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1 please.

2 Q Can you identify 3457?

3 A Yes.

4 Q What is 3357?

5 A This is an expert opinion on behalf of the police about
6 explosives.

7 Q Explosives involved in this particular attack or another
8 attack?

9 A In the Ben Yehuda explosion, about which we are talking.

10 Q Is this an official record pertaining to the
11 investigation similar to those you've seen before?

12 A Yes.

13 Q And does this particular record help you with regard to
14 what the government investigation was saying and finding with
15 respect to one of the bombs?

16 A Yes.

17 MR. TURNER: We offer 3357.

18 MR. INGERMAN: Your Honor, may we approach briefly?

19 THE COURT: Sure.

20 (Sidebar held outside the presence of the jury.)
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Sidebar

1078

1 (Sidebar)

2 THE COURT: Your Honor, this is an Israeli police
3 report, ballistics report, for lack of a better term. Doesn't
4 mention Hamas. Doesn't mention anything having to do with
5 attribution. We think it's irrelevant and unduly prejudicial.

6 THE COURT: What's prejudicial about it?

7 MR. INGERMAN: Well, it's got pictures of the bomb,
8 got descriptions of the explosive device. His testimony is as
9 to attribution. If it mentioned Hamas, I could understand it,
10 but there's no mention of Hamas anywhere.

11 MR. OSEN: Your Honor, the witness testified that he
12 discussed the building of the bombs with Mr. Barghouti. We
13 had originally had video as to Barghouti's actual statements
14 on this, but he's now described them. He's corroborating that
15 against the ballistics report and the description
16 Mr. Barghouti gave of how he packed the bomb.

17 THE COURT: I'll overrule the objection in support
18 of his opinion.

19 (Sidebar concluded.)

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SHAKED - DIRECT - TURNER

1079

1 (In presence of the jury.)

2 MR. TURNER: May we proceed?

3 THE COURT: Yes. 357 is admitted.

4 (Plaintiffs' Exhibit 357 was received in evidence.)

5 MR. TURNER: Could you put before the witness 3358,
6 please?

7 Q Can you identify 3358?

8 A Yes.

9 Q Is this an identical report, except for one of the other
10 bombings?

11 A Indeed so.

12 MR. TURNER: We offer 3358.

13 THE COURT: Same objection?

14 MR. INGERMAN: Yes, your Honor.

15 THE COURT: Received over objection.

16 (Plaintiffs' Exhibit 3358 was received in
17 evidence.)

18 MR. TURNER: Could you put before the witness 3359,
19 please.

20 Q Do you recognize 3359?

21 A I do recognize.

22 Q Is this, in fact, the same report, except for the third
23 bombing?

24 A Yes.

25 MR. TURNER: We offer 3359.

SHAKED - DIRECT - TURNER

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1 THE COURT: All right. Received over objection.
2 (Plaintiffs' Exhibit 3359 was received in
3 evidence.)

4 MR. TURNER: Now, if you could go to page 8 of 9 on
5 3359, the one with the photographs.

6 May we display this, your Honor?

7 THE COURT: Well, let's have a sidebar about that.
8 (Sidebar held outside the presence of the jury.)
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Sidebar

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1 (Sidebar)

2 THE COURT: Why?

3 MR. TURNER: This just shows the computer bomb that
4 confirmed his opinion, Barghouti's interview, confirmed by
5 cross-checking various different sources that it was, in fact,
6 a computer bomb.

7 THE COURT: I don't think you need the picture for
8 that; you've already got the police report forming the basis
9 of his opinion or contributing to his opinion, and I think the
10 picture is really unnecessary to do that.

11 MR. OSEN: Your Honor, the picture's in the report
12 itself.

13 THE COURT: I understand, and I'm not saying I won't
14 give it to the jury for their deliberations. I will cross
15 that bridge when I come to it, but right now I think, under
16 Rule 403, I'm not going to let you show the picture.

17 (Sidebar concluded.)

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SHAKED - DIRECT - TURNER

1082

1 (In the presence of the jury.)

2 MR. TURNER: May I proceed?

3 THE COURT: You may.

4 MR. TURNER: Mr. Miller, if you would show the
5 witness only page 8 of 9 of 3359?

6 Q Mr. Shaked, were you able to confirm through the
7 photographs and other materials in these exhibits, these
8 police investigation files, that by cross-checking these
9 sources that the information you learned from Mr. Barghouti's
10 interview about the computer bomb was, in fact, accurate?

11 A Yes.

12 MR. TURNER: Now, if you could place before the
13 witness only the beginning of 3284. It should be a video.

14 Q Do you recognize the person on the first clip of this
15 particular videotape, Mr. Shaked?

16 A Yes, of course.

17 Q And who is that individual?

18 A Abdulla Barghouti.

19 Q Now, is this particular video clip taken from your own
20 interview of Barghouti about this particular bombing and how
21 he created or made this particular bomb while he was in
22 prison?

23 A Yes.

24 MR. TURNER: Your Honor, under 703, may we show this
25 short clip?

SHAKED - DIRECT - TURNER

1083

1 THE COURT: No.

2 Q Did you also have an opportunity to review the sentencing
3 record for Barghouti that we referred to earlier in the prior
4 bombing, wherein he specifically discusses this particular
5 attack at Ben Yehuda?

6 A Yes, I did have the opportunity to do that.

7 MR. TURNER: Your Honor, we would like to display
8 page 2 of 2, in the English translation. We've got a slide
9 prepared. It has an excerpt. And this is already in
10 evidence, Plaintiffs' Exhibit 3336.

11 THE COURT: Can I see it first?

12 MR. TURNER: Sure.

13 THE COURT: Any objection?

14 MR. INGERMAN: No, your Honor.

15 THE COURT: All right. You may proceed.

16 MR. TURNER: Okay. If you could display this,
17 please. Can we get the lights down just a tiny bit? Thank
18 you.

19 Q Now, this particular excerpt comes from the sentencing of
20 Barghouti; is that correct, Mr. Shaked?

21 A Yes.

22 Q Now, it begins in blue. The defendant is directly
23 responsible for the murder of dozens of innocent human beings
24 and the injury of hundreds more. We fail to understand how
25 the defendant could put to the use the scientific knowledge he

SHAKED - DIRECT - TURNER

1084

1 acquired, which was intended from the outset to improve human
2 life, for so much destruction and carnage. And then in white,
3 we found a partial answer to this question, in the words of
4 the defendant, within the pleas for sentencing in this case,
5 from which one could sense, with no difficulty whatsoever, the
6 inexhaustible patriot that has consumed all his humanity.

7 The defendant expressed no remorse but was instead
8 proud of having trained dozens of engineers whom he hoped
9 would cause attacks that are more severe than he himself had
10 caused. The defendant concluded his address by promising that
11 the Hamas organization would cause the destruction of the
12 state of Israel, in accordance with the vision of Ahmed Yasin.

13 Were you present when those words, or similar words,
14 were stated in court, Mr. Shaked?

15 A Yes, I was indeed present in the court while these words
16 were said.

17 MR. TURNER: You may turn the lights back up,
18 please. Thank you.

19 Q Now, was this piece of information that you learned at
20 sentencing important information in cross-checking the various
21 sources to ensure accuracy in determining that Hamas was
22 responsible for this attack?

23 A Indeed so.

24 Q Did you also have an opportunity to investigate the
25 bombing and shooting of bus 189 near Emmanuel on

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1 December 12, 2001?

2 A Yes.

3 MR. TURNER: May we place the slide up there,
4 your Honor?

5 THE COURT: Yes.

6 Q Were you able to determine who the Hamas shooters were in
7 this particular attack?

8 A Yes, I did manage to determine.

9 Q And what were the names of the terrorists involved in
10 this particular attack near Emmanuel?

11 A Names of the terrorists are apparent on the bottom line.
12 These are three names; Muhammad Aziz Haj Ali, Assem Rihan and
13 Anan Kadusi. In the top part, you can see their commander
14 Nasr al-Din Assida.

15 Q Were you able to determine whether these people acted
16 alone or whether they were acting for and on behalf of Hamas
17 in carrying out these attacks?

18 A These terrorists did operate on behalf of the Hamas, for
19 the Hamas and as Hamas operatives.

20 Q So we get sort of a feel for where this place is, tell us
21 the significance of bus 189 and in the Emmanuel community as
22 it is geographically located in Israel.

23 A Emmanuel is located at the northern and central part of
24 Samaria. This is a locality where approximately 4,000 people
25 live. It is a religious community. Most of the people who

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1 live there work in Tel Aviv, so every morning they travel
2 there and then come back home. Most of them use that bus to
3 come back home, because the general social status in that is
4 people of middle class and beneath.

5 Q Was this a commercial bus?

6 A It was a bus from the public transportation system.

7 Q How many people were killed in this particular terrorist
8 attack?

9 A Ten people were killed in this bombing.

10 Q And how many were injured?

11 A Thirty people were injured.

12 Q What time of day did this attack occur?

13 A It occurred during the late afternoon hours. I think it
14 was approximately at 7:30 -- excuse me. 17:30, which is
15 5:30 p.m., something like that.

16 Q During the course of your investigation, were you able to
17 determine whether the type of terror attack that occurred at
18 Emmanuel was a new kind of attack, or was this similar to what
19 had transpired before?

20 A So far, we have not discussed any attack that was similar
21 to this or of this kind, because this attack combined shooting
22 with throwing a bomb, and then once again shooting at the bus
23 and storming it, a bus with people inside. This was something
24 new compared to previous attacks.

25 MR. TURNER: Would you show the witness, please,

Sidebar

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1 only 3385?

2 Q Do you recognize 3385?

3 A Yes, I do.

4 Q What is 3385?

5 A This is a claim of responsibility by the Qassam Brigades,
6 the military arm of Hamas for the Emmanuel bombing.

7 Q And what is the source of 3385?

8 MR. INGERMAN: Your Honor, may we approach just
9 briefly?

10 THE COURT: Sure.

11 (Sidebar held outside the presence of the jury.)
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24 (Sidebar)

25 MR. INGERMAN: Your Honor, this exhibit is not

Sidebar

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1 mentioned anywhere in Mr. Shaked's report. We never had an
2 opportunity to ask him about it at his depositions or inquire
3 with him. They're showing him this document for the first
4 time, and it's unfair.

5 THE COURT: Was it on the plaintiffs' list?

6 MR. INGERMAN: It's on the plaintiffs' exhibit list,
7 of course, but this witness never cited it, that he relied on
8 it for purposes of the report, so we were never able to
9 inquire of him at pretrial.

10 MR. OSEN: I don't know whether that's accurate or
11 not. I do believe Mr. Shaked is referenced the Qassam
12 Brigade's claim of responsibility. I don't know whether the
13 question here is whether this particular version of the URL is
14 not cited or whether they're saying he never cited al-Qassam's
15 claim of responsibility. I don't think that's correct.

16 MR. INGERMAN: With respect to the Emmanuel, he has
17 a section in his report on each of the attacks, with
18 respect -- on the Emmanuel section, we did not see any
19 reference to this al-Qassam claim of responsibility.

20 THE COURT: If you had, since it's been on the
21 plaintiffs' list, would you have asked him?

22 MR. INGERMAN: Well, we could have inquired with him
23 about how he relied on it, why he relied on it, what was in
24 it? I mean, it's trial by ambush, really.

25 THE COURT: I would agree with you if I saw any

Sidebar

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1 prejudice to the non-listing earlier, but I'm not seeing any.
2 It's just one more document supporting his opinion, and I
3 don't see any great cross-examination you could have done at
4 his deposition that would have impeached this particular
5 document. It's of the same general, as all the other ones he
6 relied on, so I'm going to overrule the objection. I do want
7 plaintiffs' attorneys to check this carefully. Obviously this
8 one is fine, but a bunch of them would not --

9 MR. INGERMAN: We do have others that we've
10 identified that I think are coming up that we did not find
11 anywhere in his reports, so --

12 MR. OSEN: They've had the documents. They've had
13 the report. You could reach out to us at any point if you
14 have a question about any one. Some of these are simply an
15 issue, your Honor, of which resolution version of the same WW
16 al-Qassam. If there's one that isn't, we're happy to discuss
17 it. But we would prefer to have had that discussion days ago.

18 THE COURT: Yes, I think it was clear as to which
19 documents this one would be testifying on. Right? I mean,
20 this is not a surprise to you now that they pull this document
21 out with this witness, is it?

22 MR. INGERMAN: No, but we didn't realize until
23 yesterday, when going through the exhibit. There's hundreds
24 of exhibits to try to figure out in a 200-plus report whether
25 or not a particular exhibit had been cited.

Sidebar

1090

1 THE COURT: But I've got to have a feel of quantity.
2 Like I say, if it's an isolated instance or one or two others,
3 it's a problem. If there's 20 of these exhibits, it's a
4 problem.

5 MR. INGERMAN: I mean, I would say, your Honor, just
6 estimating, we're looking at somewhere in the 10 to 12 range,
7 I would say. And I'm happy to discuss them with Mr. Osen on
8 the break. If we're wrong, the objection's no good, but --

9 THE COURT: Let's take a break now, and you all try
10 to work this out. And at least if you can't work it out, give
11 a better feel for what these documents are, why they were not
12 identified in the report -- maybe, as Mr. Osen's suggesting,
13 they're simply other versions of documents that were
14 referenced in his report that are not materially different.
15 If that's the case, it's not a problem. But we'll take our
16 break now so you can try to work it out.

17 MR. OSEN: Thank you.

18 MR. INGERMAN: Thank you.

19 (Sidebar concluded.)

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Proceedings

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1 (In the presence of the jury.)

2 THE COURT: Ladies and gentlemen, there's a small
3 issue we need to work out, so we'll take a little bit early of
4 a morning break. We'll come back here at 11:05. Please do
5 not discuss the case among yourselves. See you in 15 minutes.

6 (Outside the presence of the jury.)

7 THE COURT: Let's reconvene a couple minutes after
8 11:00, so you have a chance to talk.

9 (Recess in proceedings.)

10 (Proceedings continued on following page.)

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PROCEEDINGS

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1 (Honorable Brian M. Cogan takes the bench.)

2 THE COURT: All right. Be seated, please. Where
3 do we stand on this?

4 MR. SHAND: Mr. Ingerman will be right back.

5 THE COURT: I said 11:02. I just congratulated
6 everyone for being prompt. Is the exhibit we were talking
7 about before the break 3385?

8 MR. OSEN: 3385.

9 THE COURT: Are you sure that goes with this
10 attack?

11 MR. OSEN: As far as I know. I can confirm it
12 again, your Honor.

13 MR. INGERMAN: Sorry, your Honor.

14 THE COURT: Okay.

15 MR. OSEN: Yes, your Honor.

16 MR. TURNER: Do you have the translated version?

17 THE COURT: I'm sorry. Are we on the December 12,
18 2001, attack?

19 MR. OSEN: Yes, the Emmanuel bombing.

20 THE COURT: Right. And this document takes
21 responsibility for the attack on the 6th of Jumada al-Awwal
22 which is translated as July 16, 2002; hence, my question.

23 MR. OSEN: Reasonable question, your Honor.

24 MR. TURNER: It does say "Emmanuel".

25 THE COURT: Well, I take it aside from this

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1 question as to whether it's even the right document, I take
2 it the parties have not reached a resolution on this issue
3 of documents that the witness is using, but are not
4 contained in his report, allegedly, defendant's contention?

5 MR. OSEN: Right. Your Honor, I think we have
6 largely resolved it. There are a couple of documents
7 towards the back end of the presentation which we were just
8 going to work on now. But I think with respect to the ones
9 that are upcoming before lunch, it shouldn't be an issue,
10 and we're just going to advise Mr. Turner as to which ones
11 we've worked out.

12 THE COURT: Is that right?

13 MR. INGERMAN: It is, yes.

14 THE COURT: So let's get the jury in and proceed.

15 MR. INGERMAN: So with respect to this exhibit,
16 your Honor, this obviously is not the same attack?

17 THE COURT: Well, that's what I said; the
18 plaintiffs are not there yet.

19 MR. OSEN: Your Honor is correct, the actual
20 translation here has a different date, but it does refer to
21 the Emmanuel attack.

22 THE COURT: All right. I'm going to leave this to
23 be worked out in the direct and cross-examination process,
24 okay. However you want to deal with that is fine.

25 (Jury is in the courtroom at 11:10 a.m.)

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1 THE COURT: All right. Be seated, please.

2 Mr. Turner, you may continue.

3 MR. TURNER: Thank you, your Honor.

4 DIRECT EXAMINATION (Continued)

5 BY MR. TURNER:

6 Q When we broke, we were talking about the Emmanuel
7 shooting and bombing. Do you recall that, sir?

8 A Yes.

9 Q Now, as one of the sources of information, in addition
10 to what we've already talked about, did you have access to
11 government records from the Ministry of Foreign Affairs?

12 A Yes.

13 MR. TURNER: Could you show the witness only,
14 please, 3392.

15 MR. INGERMAN: Your Honor, I think you've already
16 ruled on 3392.

17 THE COURT: I don't think I have. Oh, you're
18 saying in the prior order?

19 MR. INGERMAN: Yes.

20 THE COURT: Mr. Turner, I did enter an order on
21 this document.

22 MR. TURNER: Yes, sir. It's only being shown to
23 the witness.

24 THE COURT: Okay, but I entered an order as to --

25 MR. TURNER: The admissibility.

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1 THE COURT: The admissibility and what the witness
2 will be able to say about this.

3 MR. TURNER: Yes, sir, I understand. I fully
4 intend to comply with the order.

5 THE COURT: All right. Please proceed.

6 MR. TURNER: May I proceed?

7 THE COURT: Yes.

8 BY MR. TURNER:

9 Q Do you recognize 3392?

10 A Yes, I do.

11 Q Now, is this one of the pieces of information that you
12 collected from the various sources that assisted you in
13 reaching the conclusion that Hamas was responsible for this
14 particular attack?

15 A Yes.

16 Q Now, in addition to this, did you also have access to a
17 video will of, I believe his name is Assem Rihan, that was
18 taken before this particular attack occurred, but talked
19 about this attack that was about to occur?

20 A Yes, I did see this video.

21 MR. TURNER: Mr. Miller, can you show the witness
22 only the first of the video marked 3398.

23 Q Do you recognize this particular video, Mr. Shaked?

24 A Yes.

25 Q Can you identify the person in the video?

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1 A Yes, this is the picture of Assem Rihan.

2 Q Is this the same Assem Rihan that carried out the
3 attack on the bus in Emmanuel?

4 A Yes.

5 Q What is the source of this will? Where did it come
6 from?

7 A The source of this video is a website of Izz ad-Din
8 al-Qassam Brigade, the military wing of the Hamas.

9 Q The same website we've been talking about?

10 A Yes.

11 Q And did this will help you reach your conclusion that
12 Assem Rihan was one of the shooters and bombers involved in
13 this particular attack and responsible for these deaths and
14 injuries?

15 A Yes, it helped me.

16 MR. TURNER: We would offer 3398.

17 MR. INGERMAN: Your Honor, we renew our objections
18 on 403 grounds.

19 THE COURT: All right. The objection is overruled
20 and the exhibit is received.

21 (Plaintiff Exhibit 3398 was admitted into
22 evidence.)

23 MR. TURNER: May we have the lights, your Honor,
24 and play this?

25 THE COURT: Yes.

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1 (Video of Assem Rihan being played.)

2 MR. TURNER: May we have the lights?

3 Q Mr. Shaked, did that videotape that was taken prior to
4 this attack assist you in concluding that Rihan and these
5 others were associated with Hamas in carrying out this
6 terrorist attack on behalf of Hamas?

7 A Yes.

8 Q In addition to these sources of information, did you
9 also have access to a memorialization poster that was
10 created of Rihan and published throughout the areas?

11 A Yes, I had access to these posters.

12 MR. TURNER: Can you show the witness only please,
13 1090, and go to page nine.

14 Q Do you recognize Exhibit 1090, page nine?

15 A I do.

16 Q Who is that individual?

17 A This is a terrorist who participated in the Emmanuel
18 attack and was killed during the attack.

19 Q Can you read -- I recognize it's in Arabic at the top
20 of your screen, can you read that for us in Arabic?

21 MR. INGERMAN: Objection, your Honor.

22 THE COURT: Sustained. You need it in first.

23 MR. TURNER: Your Honor, we would offer 1090, page
24 nine.

25 MR. INGERMAN: We object, in addition to 801 for

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1 reasons we discussed before the break, we're not seeing the
2 picture anywhere.

3 THE COURT: I thought we had resolved that, at
4 least at this point.

5 MR. OSEN: I thought so too, your Honor. If we
6 can do a quick sidebar.

7 (Continued on the next page for sidebar.)
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SIDEBAR CONFERENCE

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1 (Sidebar conference begins.)

2 MR. OSEN: I think we indicated to you that the
3 poster didn't come as mentioned in this report, but not in
4 the form that is on the screen presented, because we took
5 the same one that is used from -- it's the same poster, just
6 a different version of the same poster.

7 THE COURT: All right. Here is my feeling about
8 this: Look, you've got an expert report, you take his
9 deposition, you go through all the things the expert relied
10 on in his report. At the end of the report, at the end of
11 the examination you say, is there anything else you relied
12 on. If he says "no" then you've got good cross-examination,
13 okay. You've got -- you can say to him on cross-examination
14 you didn't tell us about this during your deposition, did
15 you. I asked you everything you relied on and you didn't
16 mention this, did you. This wasn't in your report, was it.
17 And that's where I'm going to leave it right now.

18 MR. INGERMAN: I understand, your Honor, but the
19 prejudicial value of moving this stuff in outweighs the
20 probative value of the cost here.

21 THE COURT: I think it really has very little
22 prejudicial value. It is a picture and an assumption of
23 responsibility by a guy who he's got other sources that show
24 that, so I think the prejudicial impact is really quite
25 limited, so I'm going to relegate it to cross-examination on

SIDEBAR CONFERENCE

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1 that.

2 (End of sidebar conference.)

3 (Continued on the next page.)

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1 THE COURT: All right. The document is admitted
2 over objection.

3 (Plaintiff Exhibit 1090 was admitted into
4 evidence.)

5 MR. TURNER: May we put it up on the screen, your
6 Honor?

7 THE COURT: You may.

8 MR. TURNER: Mr. Miller, if you can enlarge the
9 upper half.

10 BY MR. TURNER:

11 Q First of all, do you recognize the logo?

12 A Yes, I recognize it.

13 Q What is the logo?

14 A This is the logo of Izz ad-Din al-Qassam Brigade.

15 Q Can you read for us the Arabic that's written on the
16 document above the logo?

17 A It says that there -- I have read this phrase first in
18 Arabic. It says the heroic Assem Rihan who acted out the
19 blessed action of Nablus.

20 Q Nablus is what?

21 A They mean the Emmanuel attack. Nablus appears because
22 Nablus is the central city of that area.

23 MR. INGERMAN: Objection, your Honor, move to
24 strike.

25 THE COURT: Sustained. Ladies and gentlemen, the

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1 words in this document are, again, not to be taken as true
2 by you. The document is only used to help you evaluate
3 whether you should accept this witness' opinion.

4 Q Mr. Shaked, where is Nablus in relation to Emmanuel?

5 A Emmanuel is a couple of kilometers, a few miles
6 northwest of Nablus.

7 MR. TURNER: If you can go out and focus on the
8 bottom.

9 Q Who is in the photograph?

10 A This is a picture of Assem Rihan.

11 Q What does the Arabic say at the bottom?

12 A This is an Islamic concept which expresses the heroism
13 of a person who gives his live for others.

14 Q Did you have an opportunity to investigate the shooting
15 attack in Atzmona in March of 2002?

16 A Yes.

17 MR. TURNER: May we demonstrate the slide, your
18 Honor?

19 THE COURT: Sure.

20 Q Were you able to determine who the shooter was?

21 A Yes.

22 Q Who was the terrorist that carried out the shooting?

23 A The shooter is Muhammad Farhat, a member of the Hamas
24 organization.

25 Q Were you able to determine or reach a conclusion as to

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1 whether or not Muhammad Farhat did this on his own or
2 whether he was acting before and on behalf of Hamas?

3 A Muhammad Farhat acted on behalf of Hamas with the
4 knowledge of Hamas and his commanding officers.

5 Q How many people were killed in this particular terror
6 attack in Atzmona?

7 A Five people were killed in Atzmona.

8 Q And how many were injured?

9 A 23 were injured.

10 Q Did your investigation reveal how old Muhammad Farhat
11 was?

12 A Yes, he was 17 years old.

13 Q Did your investigation find anything unique about
14 Muhammad Farhat's role in this particular attack in terms of
15 his age?

16 A Yes. I will tell you about it briefly. Muhammad
17 Farhat wanted to do the suicide bombing. He turned to his
18 mother, Marriam Farhat, who is also an activist of Hamas,
19 and she went directly to the commander, senior commander of
20 al-Qassam Brigade to get his permission. And he allowed her
21 son to go and do this. And only after receiving permission
22 did he go and perpetrate the attack.

23 Q Is Shehada shown as the top photograph?

24 A Yes, Salah Shehada is the top of the slide.

25 Q Did Salah Shehada have any special or unique role in

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1 the investigation of the founding of Hamas?

2 A Yes. Salah Shehada was one of the founders of the
3 Hamas and the commander of the military wing of Hamas.

4 Q What was unique about this particular attack that
5 required that this 17 year old's mother go to Shehada, one
6 of the high executive leaders of Hamas, in order to, as you
7 put it, get permission to do this attack?

8 MR. INGERMAN: Objection.

9 THE COURT: Sustained as to form.

10 Q Can you explain to us why Shehada was required to
11 approve this particular attack, at least based on your
12 investigation?

13 A Farhat was 17 years old. He was a member of the Hamas
14 youth movement, and Hamas did not want children for these
15 kinds of attacks. And he was also -- children are also
16 inexperienced. This is why permission was required from the
17 commander both from an operational perspective and with
18 respect to the age.

19 Q What did your investigation reveal about Farhat's
20 mother's role in Hamas?

21 A The mother of Muhammad Farhat, Marriam, escorted him on
22 his way and wished him good luck. That means this was the a
23 mother who sent a young son to die for the cause for which
24 she felt was important.

25 MR. TURNER: Would you show the witness only 3429,

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1 please.

2 Q Do you recognize 3429?

3 A Yes, I do.

4 Q And what is 3429?

5 A Yes, this is the claim of responsibility issued by
6 al-Qassam Brigade of the military wing of Hamas regarding
7 the attack that was carried out in Atzmona by the heroic
8 Muhammad Farhat.

9 Q What is the source of 3429?

10 A It is the official website of the Qassam Brigade, the
11 military wing of Hamas.

12 MR. TURNER: We offer 3429.

13 THE COURT: Same objection?

14 MR. INGERMAN: Yes.

15 THE COURT: Received over objection.

16 (Plaintiff Exhibit 3429 was admitted into
17 evidence.)

18 MR. TURNER: May we post it on the screen?

19 THE COURT: Yes.

20 MR. TURNER: Please use the English version. If
21 you can blow up the upper half.

22 BY MR. TURNER:

23 Q Now, did this official claim of responsibility help you
24 confirm that Muhammad Farhat carried out this terrorist
25 attack on behalf of Hamas at Atzmona?

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1 A Yes, sir.

2 Q Now, in addition to this official claim of
3 responsibility, were you also able to access a will of the
4 young boy that was posted on the Hamas al-Qassam website?

5 A Yes, I did have access.

6 Q Now, you've listed Wa'el Nasar as one of the
7 participants or operatives in this particular terrorist
8 attack. Who was Wa'el Nasar?

9 A He was -- Wa'el Nasar was senior commander in the
10 military wing of Hamas. He was one of the deputies of Salah
11 Shehada, and he was the one who was responsible and
12 confirmed directly this terror attack. He was the one who
13 dispatched the suicide bomber to carry out this attack.

14 Q From a memorialization standpoint, was there a funeral
15 or as they described it "a wedding ceremony" by Hamas on
16 behalf of this young boy?

17 A Yes, indeed there was a large funeral.

18 Q Was there anything unique in terms of who attended this
19 particular funeral that was significant in terms of
20 connecting Hamas to this particular attack?

21 A Yes. Sheikh Yassin himself was present in the funeral.
22 And along with him there were other senior members, senior
23 leaders of Hamas, such Abd al-Aziz al-Rantisi, Isma'il Abu
24 Shanab and Isma'il Haniya.

25 Q And who were these; you mentioned Rantisi and Haniya,

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1 who were those individuals in terms of leadership of Hamas
2 at the time?

3 A Rantisi was number two in the Hamas, that meant he was
4 the deputy of Ahmed Yassin. And Haniya at the time was
5 Sheikh Ahmed Yassin's chief of staff.

6 Q Did you also have an opportunity as part of your work
7 to investigate the bombing at Cafe Moment in Jerusalem that
8 occurred on March 9, 2002?

9 A Yes, I did investigate.

10 MR. TURNER: May we display the slide, your Honor?

11 THE COURT: Yes.

12 Q Were you able to determine who the suicide bomber was
13 in the Cafe Moment attack?

14 A Yes. At the bottom of the picture of this slide we can
15 see the photo of Fuad Hurani, he was the suicide bomber.

16 Q And was Abdullah Barghouti the bomb maker we talked
17 about earlier involved in this attack as well?

18 A Yes. Barghouti prepared the explosives belt.

19 Q In order to understand this particular attack, can you
20 describe what, at the time, Cafe Moment was and where it was
21 located within Jerusalem?

22 A Yes. Cafe Moment was at the center of this
23 neighborhood and perhaps I could call it this yuppy
24 neighborhood in Jerusalem, a lot of academics live in that
25 area, intellectuals, students. And these are the people

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1 that went to this cafe. These are the people that live next
2 to this cafe. If I liken it to something in New York, I
3 would say that neighborhood is a bit similar to the Village.
4 And people would simply love to go to that cafe and hang out
5 and drink their coffee, and mainly people would go there
6 late at night.

7 Q Where was the cafe in relation to the prime minister of
8 Israel's home?

9 A I would say it's about 150 to 200 yards, the distance
10 from the prime minister's home.

11 Q Where is Cafe Moment in relation to your office?

12 A I'd say no more than about half a mile.

13 Q Were you at the office at the time of this particular
14 attack?

15 A No, I wasn't in my office. It occurred at a late hour
16 at night.

17 Q Did you go to the scene of this particular attack?

18 A Yes.

19 Q Can you give us an estimate approximately how long it
20 took you to get to the scene following the attack?

21 A I would say it's approximately -- it took me
22 approximately, 20 minutes, half hour tops, not more than
23 that.

24 Q Let's work on your slide for just a minute and identify
25 some of these individuals that you determined were involved

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1 in this particular terror attack on behalf of Hamas.

2 First of all, was Wisam Abbasi, what role did
3 Abbasi play in this attack?

4 A He is at the right hand of the picture and he was a
5 member of the simple. His role was to locate the cafe in
6 Jerusalem where they will carry out the attack.

7 Q And what was the role of Walid Anjas?

8 A Walid Anjas. Yes, he was an operative a Hamas
9 operative from he was the person who dispatched the suicide
10 bomber from Ramallah to Jerusalem. And he was the person
11 who authorized, who actually attended the decision regarding
12 the location of the attack.

13 Q And going back over to the right-hand side of the
14 screen, Wa'el Qassam, what was Qassam's role in this
15 particular terrorist attack?

16 A Wa'el Qassam was a military leader of Hamas in
17 Jerusalem at that time of the Hamas military wing. He was
18 the person who choose the place where to perpetrate the
19 attack. He was the person who had dispatched the suicide
20 bomber and even led him very close to the cafe, just a few
21 yards, and then he pointed at the place where he should
22 explode himself.

23 Q Moving across to the center, Abdullah Barghouti. In
24 your interview with Barghouti did you have an opportunity to
25 talk face-to-face with him about the terrorist attack at

R. SHAKED - DIRECT/MR. TURNER

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1 Cafe Moment?

2 A Yes.

3 Q And during the course of your investigation were you
4 able to determine from the various sources that you
5 cross-referenced what the source of the bomb was; in other
6 words, was it in a guitar, a computer like the other ones or
7 how was it delivered?

8 A This time the bomb was in explosive belt that was on
9 the body of the suicide bomber.

10 Q Moving across to the left again, Muhammad Arman. What
11 role was Muhammad Arman in this particular terrorist attack?

12 A Muhammad Arman who was an operations officer, a key
13 operative of Hamas in Ramallah. He was the person who had
14 fitted the explosive belt on the body of the suicide bomber.

15 Q And finally up at the top, Ibrahim Hamed. We've seen
16 his picture before. You told us who he was in general.
17 What role did you find that he played in the Cafe Moment
18 terrorist attack?

19 A Yes. In this case he was very much involved in the
20 recruiting of the suicide bomber, not just the recruiting,
21 but he was the one who coordinated this activity between the
22 different cells, and he was the person who provided
23 instruction and direction on how to carry out this attack.

24 Q On this particular attack did you have access to
25 information from the Israel Security Agency, the ISA report

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1 describing this attack?

2 A Yes, I did have access.

3 MR. TURNER: Your Honor, 3811 is already in
4 evidence. May we post the page pertaining to this attack?

5 THE COURT: You may.

6 Q Did the ISA identify the same suicide bomber that you
7 were able to identify?

8 A Indeed so.

9 Q Now, the ISA indicated that this young man that carried
10 out the suicide attack was a resident of a refugee camp born
11 originally in Bethlehem. Was that consistent with your
12 investigation?

13 A Yes, this is in line with -- these details are in line
14 with my investigation.

15 Q And did the ISA likewise identify individuals that you
16 likewise identified as operatives in this particular attack?

17 A Indeed, yes.

18 Q Was this piece of information from the government
19 important to you in reaching your conclusion?

20 A Yes, it is important to me.

21 MR. TURNER: Can you please show the witness only
22 3511.

23 Q Do you recognize 3511?

24 A Yes.

25 Q Does this come from an agency or branch of the

R. SHAKED - DIRECT/MR. TURNER

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1 Government?

2 A Yes, it is from prime minister's office.

3 Q Is this one of the pieces or sources of information
4 that you were able to use as a crosscheck method to ensure
5 your information was accurate?

6 A Yes.

7 MR. TURNER: Can you show the witness 3484,
8 please.

9 Q Do you recognize this from the Israel Ministry of
10 Foreign Affairs?

11 A I recognize it.

12 Q Is this again one of those sources that you used to
13 crosscheck the accuracy of your investigation?

14 A Yes, this is an additional cross-referencing source.

15 MR. TURNER: Would you please show the witness
16 3485, please.

17 Q Do you recognize 3485?

18 A I do.

19 Q What is 3485?

20 A This is an expert opinion by a police expert who
21 checked the findings found in the scene after the attack.

22 MR. INGERMAN: Objection, your Honor.

23 THE COURT: Overruled.

24 Q And is this similar to the police investigation reports
25 carried out in the ordinary course of business that you

R. SHAKED - DIRECT/MR. TURNER

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1 referred to earlier?

2 A Yes, it is like other police reports.

3 Q And were you able to use the information you found in
4 this police report to crosscheck other information you
5 learned from Barghouti and from the claim of responsibility
6 in the other investigation sources to confirm your
7 conclusions?

8 MR. INGERMAN: Objection to form.

9 THE COURT: Overruled.

10 A Yes.

11 MR. TURNER: We offer 3485.

12 THE COURT: Where did you get this document?

13 THE WITNESS: Within the framework of my
14 journalistic work, I used to receive different documents
15 from the police, from the ISA, from the Ministry of Foreign
16 Affairs, from the prime minister's office, among others.
17 There were also documents from the police that were open
18 sources.

19 THE COURT: All right. Same objection?

20 MR. INGERMAN: Yes, your Honor.

21 THE COURT: All right. It's overruled. The
22 document is received.

23 (Plaintiff Exhibit 3485 was admitted into
24 evidence.)

25 Q And finally, with respect to the Cafe Moment terrorist

R. SHAKED - DIRECT/MR. TURNER

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1 attack, 3336 is already in evidence. That is the sentencing
2 record of Abdullah Barghouti. Were you present in the
3 courtroom that day?

4 A Yes, I was present at the court during the reading of
5 the sentence.

6 Q And did the conviction records as well as what you
7 heard in the courtroom that day help you confirm the facts
8 surrounding the bombing attack at Cafe Moment in Jerusalem?

9 A Yes, they helped me.

10 Q Did you have an opportunity to investigate the Park
11 Hotel suicide bombing that occurred on March 27, 2002?

12 A Yes.

13 Q Were you able to determine who the suicide bomber was
14 responsible for the terrorist attack at the Park Hotel?

15 A Yes, I did.

16 MR. TURNER: Can you put the slide up? Is that
17 okay, your Honor?

18 THE COURT: Yes.

19 Q Who was the suicide bomber responsible for the
20 terrorist attack at the Park Hotel in 2002?

21 A The name of the suicide bomber was Abd al-Baset Oden
22 and he was a resident of Tulkarem.

23 Q Where is Tulkarem?

24 A If you remember the map of Israel, Tulkarem is in the
25 center of Israel, about a 11 miles, perhaps a little more,

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1 from the seashore.

2 Q Where was the Park Hotel located?

3 A Park Hotel, it is in the center. The hotel is in the
4 center of the city of Netanya, which is very close to
5 Tulkarem.

6 Q Now, in order to understand the background of this
7 particular bombing, can you describe the Park Hotel and the
8 events that were going on at the time of the Park Hotel
9 attack?

10 A As I said, it happened in the resort town called
11 Netanya. This is a relatively large hotel. And that
12 evening, many Israelis gathered there to celebrate Passover,
13 which is a festive dinner. This is one of the most
14 important events in the Jewish calendar in which people
15 gather together to eat and celebrate.

16 At that night, many of the people in the hotel
17 were elderly people Holocaust survivors who did not have
18 families, and they came together to celebrate the Passover
19 with friends or with other people like them.

20 Dinner started at 7:30. Everybody was of course
21 well-dressed, festive dresses, and the dinner was also
22 festive, the kind of food was also festive.

23 MR. SHAND: Your Honor, may we approach for a
24 moment?

25 THE COURT: Yes.

(Continued on the next page for sidebar.)

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SIDEBAR CONFERENCE

1117

1 MR. STEPHENS: This testimony is being given as if
2 he has personal knowledge of all of this.

3 THE COURT: I didn't get an objection to the
4 question.

5 MR. STEPHENS: I'm actually trying to talk about
6 the whole procedure here where instead of the question being
7 in your opinion or something like that, he is just telling
8 about everybody was well dressed at a hotel he wasn't even
9 at.

10 THE COURT: Mr. Stephens, I can't really respond
11 to that. I can sustain or overrule questions to
12 objections -- sustain or overrule objections to questions.
13 I can't operate thematically. So if there's a problem with
14 a question, let me know. If an answer is not responsive to
15 a question, let me know. Other than that, I can't help you.

16 I will say -- no, I won't say. Let's go and
17 continue with the questioning.

18 (End sidebar conference.)

19 (Continued on the next page.)
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1118

1 MR. TURNER: May I continue?

2 THE COURT: You may. Let's get on to more
3 particulars.

4 MR. TURNER: Did you finish interpreting the
5 answer?

6 THE INTERPRETER: I did.

7 BY MR. TURNER:

8 Q Now, before we go into the sources of information for
9 this particular suicide attack, I want to talk about your
10 slide and some of the people that you were able to identify
11 as part of your investigation that were involved in this
12 terror attack.

13 But before we do that, were you able to determine
14 whether Odeh, the suicide bomber, was acting alone or
15 whether he was acting for Hamas in carrying out this attack?

16 A Abdel-Basset Odeh acted on behalf of Hamas in the name
17 of Hamas and as a member of Hamas.

18 Q Now, on the right of your slide, Muhanad Sharim. What
19 was his role in this particular attack?

20 A Muhanad Sharim was a Hamas activist in Tulkarem. And
21 he provided logistic support for this operation.

22 Q How about Fathi Khasib?

23 A Fathi Khasib was a Hamas operative, and he was a driver
24 who took the suicide bomber to the site of the attack.

25 Q And during the course of your investigation, were you

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1 able to determine how Odeh, the suicide bomber, managed to
2 get into the hotel and in the midst of the crowd that was
3 celebrating the Passover?

4 MR. INGERMAN: Objection, your Honor.

5 THE COURT: Sustained.

6 BY MR. TURNER:

7 Q During the course of your investigation, were you able
8 to determine facts that demonstrated how Odeh was disguised?

9 A Yes.

10 Q What did you learn?

11 A Yes. Odeh was disguised as a woman. He wore blue
12 tight jeans, women's jeans, high-heeled shoes, a brown shirt
13 and a brown woman's jacket. He wore a wig. He shaved and
14 he made up as a woman. He had makeup. And he carried a
15 woman's bag on his shoulder.

16 Q And were you able to determine as part of your
17 investigation what the delivery method of the bomb was?

18 A Yes.

19 Q And what did you learn?

20 A Odeh was wearing an explosive belt. It was sort of a
21 vest hidden under the brown jacket he was wearing.

22 Q Were you able to determine who built the bomb as part
23 of your investigation?

24 A Yes, I managed to do that.

25 Q And what was that terrorist's name?

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1 A His name was Muhanad Taher. He was the commander of
2 Hamas in Nablus. And he was the one who built the bomb.

3 Q And were you able to determine who was the terrorist in
4 charge of planning and supervising the attack on Passover at
5 the Park Hotel?

6 A Yes.

7 Q And who was that person?

8 A His name is Abbas Sayed.

9 Q Were you able as part of your investigation to look
10 into the background of Abbas al-Sayed?

11 A I did.

12 Q And what did you learn about Abbas al-Sayed in terms of
13 his relationship to Hamas?

14 A Yes. Abbas al-Sayed joined when he was a high school
15 student, the Muslim Brotherhood. And when he was studying
16 in Jordan, he joined Hamas. In the beginning, he was in a
17 political role, a spokesperson. He also used to preach in
18 mosques. But when the Intifada started, he became the
19 military commander of Hamas in Tulkarem.

20 Q Based on your investigation, were you able to determine
21 whether Abbas al-Sayed was a secretive operative of Hamas or
22 whether he was a public figure?

23 A As a spokesperson for Hamas, it couldn't be secretive.
24 In Tulkarem people knew him. I would say that many of the
25 residents of Tulkarem knew him. They heard him preaching in

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1 mosques. He appeared in many ceremonies with a green Hamas
2 bandana on his forehead. So it was absolutely clear that he
3 was from Hamas.

4 MR. TURNER: Would you show the witness 3544,
5 please.

6 BY MR. TURNER:

7 Q Can you identify 3544?

8 A Yes, I do.

9 Q What is 3544?

10 A This is an official announcement by Hamas, an official
11 claim of responsibility declaring that that explosion at
12 Park Hotel in Netanya was their act.

13 Q And what is the source of 3544?

14 A The source is the Internet Web site of the Hamas
15 Brigade, the military wave of Hamas.

16 Q Is that the same Web site we've been referencing
17 throughout today?

18 A Yes, indeed.

19 MR. TURNER: We offer 3544.

20 THE COURT: Same objection?

21 MR. STEPHENS: Yes.

22 THE COURT: Received over objection.

23 (Plaintiffs' Exhibit 3544 received in evidence.)

24 MR. TURNER: Would you please put the English
25 translation over the screen.

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1 Is that okay, your Honor?

2 THE COURT: Yes.

3 MR. TURNER: Can you blow up the picture for us,
4 please.

5 BY MR. TURNER:

6 Q Do you recognize that individual?

7 A Yes, I do.

8 Q Who is that individual?

9 A This is Abdel-Basset Odeh, the terrorist who exploded
10 himself at the Park Hotel in Netanya.

11 Q Were you able during the course of your investigation
12 to determine any background information about Odeh?

13 A Indeed, I found.

14 Q What did you learn?

15 A Yes. What I learned was that as a young man, he was an
16 Hamas operative, perhaps for two years and maybe even a bit
17 more than that before the attack. He had volunteered to
18 carry out the suicide bombing and he was wanted by the
19 Israeli authorities. And everything which I learned was
20 that he had worked for a while in hotels in Netanya.

21 MR. TURNER: Okay. Could you back out of that,
22 please.

23 BY MR. TURNER:

24 Q Now, were you able to crosscheck the validity of the
25 official claim of responsibility with the Israeli Security

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1 Agency investigation report?

2 A Yes.

3 MR. TURNER: Your Honor, may we display the
4 portion of 3811 already in evidence?

5 THE COURT: Yes.

6 BY MR. TURNER:

7 Q Did the ISA report relating to the investigation and
8 conclusions for the Park Hotel bombing confirm what you
9 found?

10 A Yes.

11 Q Now, did it also confirm -- and by "it," I'm referring
12 to the ISA report -- did it also confirm Muhanad Taher's
13 role in this particular attack?

14 A Yes, indeed the report does mention the name of Muhanad
15 Taher and his role.

16 Q And does it likewise mention Abbas al-Sayed?

17 A Yes. Abbas al-Sayed is also mentioned.

18 Q I want to focus in on this one sentence for a minute.

19 Do you see where I'm reading? I can't read it.

20 "The attack was directed by the Hamas military networks
21 in Tulkarem and Nablus, headed by Abbas al-Sayed and Muhanad
22 Taher. Abbas al-Sayed, responsible for the attack from
23 Tulkarem, served as the Hamas military leader in the area.
24 Abbas al-Sayed admitted in his interrogation that he had
25 planned to execute the attack many months earlier, but his

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1 plans were postponed."

2 Was that consistent, Mr. Shaked, with your
3 cross-reference sources of information?

4 A Yes, indeed, this is a cross-reference for all the
5 other materials I have in which I have reached.

6 Q Now, in addition to these sources of information
7 confirming Hamas' role in the Park Hotel attack, did you
8 likewise have access to a videotaped interview of one
9 Osama Hamden, a spokesperson from Lebanon on behalf of
10 Hamas?

11 MR. STEPHENS: Objection.

12 THE COURT: Just answer as to Osama Hamdan.

13 A Yes, I did have access to watch it.

14 MR. TURNER: Your Honor, at this point we'd like
15 to dim the lights and watch 3580, which is already in
16 evidence.

17 THE COURT: Haven't we already seen it? Do we
18 need to see it again?

19 MR. TURNER: I'd kind of like to.

20 THE COURT: I don't think that's a good enough
21 reason.

22 MR. TURNER: I didn't think it would be, but I
23 thought I would try.

24 Can you show the witness only 3524, please.

25 BY MR. TURNER:

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1 Q Do you recognize 3524, Mr. Shaked?

2 A Yes, I do.

3 Q What is 3524, in general?

4 A This is the admission in which Abbas al-Sayed gave to a
5 police interrogator. Parts of it are written in Hebrew and
6 other parts are in Arabic.

7 Q And are you able to read both the Hebrew and the
8 Arabic?

9 A The Arabic handwriting it would be a bit difficult for
10 me, but with a little bit of effort I will manage to do it.

11 Q Now, is this one of the sources of information that you
12 had access to from the police files in reaching your
13 conclusions about Abbas al-Sayed in both Hamas and the Park
14 Hotel attack?

15 A Yes, indeed so.

16 MR. TURNER: Now, would you please show the
17 witness only 3553.

18 BY MR. TURNER:

19 Q Can you identify 3553?

20 A Yes, I do recognize.

21 Q What is 3553?

22 A Yes. This is the ruling regarding four members, four
23 senior members, of the cell who participated in that terror
24 attack in the Park Hotel.

25 MR. TURNER: Your Honor, we would offer 3553 as

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1 apostille convictions of these individuals.

2 THE COURT: That's received over objection.

3 (Plaintiffs' Exhibit 3553 received in evidence.)

4 MR. TURNER: May I have one moment?

5 THE COURT: Yes.

6 (Brief pause.)

7 MR. TURNER: Can we see you for one second?

8 THE COURT: Yes.

9 (Sidebar conference.)

10 (Continued on the next page.)

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SIDEBAR CONFERENCE

1127

1 MR. OSEN: Your Honor ruled that the confession of
2 Abbas al-Sayed was admissible.

3 THE COURT: I can't hear you.

4 MR. OSEN: Mr. Ingerman may have put it on the
5 list. We just wanted to make sure we didn't run afoul of
6 anything that he had raised.

7 THE COURT: I see.

8 MR. OSEN: So I just wanted to confirm before we
9 actually --

10 THE COURT: Is this one of the documents you don't
11 think was in the expert report?

12 MR. INGERMAN: I don't know what exhibit number
13 he's talking about.

14 MR. TURNER: 3511. No, 3511. 3511 is the ISA
15 report. 3554.

16 MR. INGERMAN: 3554?

17 THE COURT: Yes.

18 MR. INGERMAN: That is one that I put on the list.

19 MR. OSEN: Right.

20 THE COURT: Okay. So the objection is that
21 the -- the objection will be that the witness did not refer
22 to this document in his expert reports. That a document
23 nevertheless has been ruled admissible, and I think it's for
24 cross-examination to say that the witness' only relying on
25 it for the first time today.

SIDEBAR CONFERENCE

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1 So I will overrule that objection when it comes,
2 but I will note it.

3 MR. INGERMAN: Okay. We have our other objection
4 to these documents as well.

5 THE COURT: Yes, of course.

6 MR. INGERMAN: Thank you.

7 (End sidebar conference.)

8 (Continued on the next page.)

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1 MR. TURNER: May I proceed?

2 THE COURT: You may.

3 BY MR. TURNER:

4 Q Do you recognize 3554 which is before you?

5 A Yes, I do.

6 Q And what is 3554?

7 A This is the sentencing that was issued by the district
8 court in Tel Aviv against Abbas Sayed.

9 MR. TURNER: Your Honor, we offer 3554.

10 THE COURT: All right. That's received over
11 objection.

12 (Plaintiffs' Exhibit 3554 received in evidence.)

13 MR. TURNER: First of all, may we go to the
14 document on the screen.

15 This particular part --

16 MR. INGERMAN: Your Honor, objection. It's not
17 the same exhibit.

18 THE COURT: Oh. Let's take it off the screen.

19 MR. TURNER: Sorry.

20 THE COURT: Right. It's not the same exhibit.

21 MR. TURNER: Do you not have that on the slide?
22 Just go back to the document.

23 THE COURT: It may be the same exhibit. Are you
24 sure it's not the same exhibit?

25 MR. INGERMAN: It's not, your Honor.

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1 THE COURT: It's not just the English translation
2 of the conviction?

3 MR. OSEN: It's not on the conviction. It's the
4 interrogation, police report, which Mr. Shaked testified to
5 a few moments ago.

6 THE COURT: You have to clean this up. It's
7 confusing.

8 MR. TURNER: I'll go back and start over.

9 BY MR. TURNER:

10 Q All right. Let's go back to 3554, which you should
11 have on your screen.

12 THE COURT: I think you mean 3524. That's the
13 confusion.

14 MR. TURNER: I think we have 3554 on the screen.

15 THE COURT: I think you do, but I think you want
16 3524.

17 MR. TURNER: No, sir. I think going to 3524 was a
18 mistake on the slide. So I'm going back to start at 3554.

19 THE COURT: Okay. Go ahead.

20 BY MR. TURNER:

21 Q Do you recognize 3554?

22 A Yes, I do.

23 Q And what is 3554?

24 A This is the sentencing given to Abbas Sayed.

25 Q Now, during the course of the sentencing records, were

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1 you able to -- as part of your investigation, were you able
2 to determine whether Abbas al-Sayed confessed as part of the
3 sentencing?

4 A Abbas Sayed said that he does admit to all the details,
5 but he does not admit his guilt. And from what I understand
6 from all the documents, indeed Abbas Sayed did plead guilty.

7 Q Now we want to go back to 3524 -- if you'll put that in
8 front of you -- which is the police interrogation that we
9 looked at a moment ago.

10 Now, did you have an opportunity as part of your
11 investigation to compare al-Sayed's interrogation
12 investigation with the sentencing confession that he made?

13 MR. INGERMAN: Objection.

14 THE COURT: Overruled.

15 A Yes, I did.

16 BY MR. TURNER:

17 Q And were they consistent with one another?

18 A Yes, they are consistent with each other.

19 Q Including insofar as his role with Hamas was concerned?

20 A Yes.

21 Q And the Park Hotel?

22 A Regarding Park Hotel as well.

23 Q Now, 3524, which is the interrogation document in front
24 of you, have you seen these type government documents
25 before?

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1 A Yes.

2 Q Approximately, how many years have you been evaluating
3 these kinds of documents in your profession?

4 A I can only tell you that I've been looking over these
5 kinds of documents since my very first years working in the
6 ISA. And I still go over such documents today. That means
7 I'm talking about 40 years and more than that.

8 Q And do you recognize the government form?

9 A Of course.

10 Q Including the names included on 3524?

11 A Yes.

12 Q And the reference to the Park Hotel attack?

13 A Yes.

14 MR. TURNER: We offer 3524.

15 THE COURT: That's received over objection.

16 (Plaintiffs' Exhibit 3524 received in evidence.)

17 MR. INGERMAN: May we have a sidebar?

18 THE COURT: Are you almost done with Park Hotel?

19 MR. TURNER: Yes, sir.

20 THE COURT: After I rule on this at sidebar, how
21 much more do you have on Park Hotel?

22 MR. TURNER: One postcard.

23 THE COURT: All right. Let's have a sidebar.

24 (Sidebar conference.)

25 (Continued on the next page.)

SIDEBAR CONFERENCE

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1 MR. INGERMAN: Your Honor, this is an unapostilled
2 interrogation report for Mr. al-Sayed. It doesn't mention
3 the Park Hotel by name. It mentions some of the players.
4 And Mr. Shaked testified that he actually -- that Mr. Sayed
5 denied his guilt in the confession.

6 And it's hugely prejudicial because they are going
7 to point out in the slides that are coming that he
8 referenced money that he got in an Arab Bank account which
9 is in connection with a different operation other than the
10 Park Hotel. We think it would be misleading, confusing to
11 the jury, and unfairly prejudicial among the other
12 objections of 801 and 901.

13 THE COURT: Well, first of all, as to the 801,
14 I've held it's a declaration against interest. As to the
15 901, I think the witness has testified that this document is
16 typical of the kinds of documents he's reviewed and has been
17 reviewing for over 40 years.

18 If it helps, you should ask him this question,
19 although I'm loathe to require it as we're spending a lot of
20 time on technicalities that are not furthering the search
21 for truth, but go ahead and ask him how do you know this is
22 real. Ask him that question. Then if you ask him that
23 question and I get a satisfactory answer, I will overrule
24 the 901 objection.

25 On the 403 objection, I do not think it's unduly

SIDEBAR CONFERENCE

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1 prejudicial. I think it is highly probative and because of
2 its probative value, I think the prejudicial impact is
3 outweighed.

4 So the objections are overruled.

5 (End sidebar conference.)

6 (Continued on the next page.)

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1 MR. TURNER: May I proceed?

2 THE COURT: You may.

3 BY MR. TURNER:

4 Q Going back to 3524, Mr. Shaked, looking at this
5 document, how do you know this document is real or
6 authentic?

7 A It includes all the necessary details starting with the
8 identity card number of the terrorist, Abbas Sayed, the
9 personal details of the officer who took the testimony, the
10 date, the place of the questioning, the format -- I
11 recognize the format of such documents, and of course the
12 reference to activities in which Abbas Sayed is accused.

13 In addition to that, there is a handwriting which you
14 can compare to other handwritten documents written by Abbas
15 Sayed.

16 THE COURT: You maintain your offer?

17 MR. TURNER: Yes, sir.

18 THE COURT: It is admitted over objection.

19 MR. TURNER: If we can move to the first slide.

20 May we use the presenter?

21 THE COURT: Yes.

22 MR. TURNER: This is the translated version.

23 BY MR. TURNER:

24 Q Were you able to use this portion, Mr. Shaked, to
25 confirm Mr. al-Sayed's history with Hamas?

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1 A Yes.

2 Q And do you recognize the name Jamal Mansur?

3 A Yes.

4 Q And who was Jamal Mansur at the time?

5 A Jamal Mansur was one of the heads of the Hamas
6 movement, one of its commanders in Nablus, and a member of
7 his senior leadership.

8 Q And who was Khaled Mashal?

9 A Khaled Mashal at the time was the head of the Political
10 Bureau of Hamas. He was, in fact, the leader of the Hamas
11 movement. And he dwelled in Damascus at the time.

12 Q And of course Osama Hamdan we referenced earlier about
13 the CNN video, correct?

14 A True.

15 Q And the last two, al-Rantisi and Yusuf Ramallah, do you
16 recognize those two names?

17 A Yes, I recognize the names.

18 Q And were they involved with Hamas?

19 A Both of them were top activists, very senior activists,
20 of Hamas. One of them acted in the Gaza Strip and the other
21 one was in the West Bank.

22 Q And is this another example of cross-referencing
23 information to confirm that al-Sayed was appointed as
24 representative of Hamas in Tulkarem?

25 A Yes.

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1 Q Let's go to the next slide, continuing on with this
2 same document, 3524. There is a quote, "The money that I
3 paid for the weapons was transferred to my private bank
4 account in Arab Bank in Tulkarem. This money was sent from
5 the USA to my account," end quote.

6 Did I read that correctly?

7 A Yes.

8 Q At the time of these events, approximately, what was
9 the population of Tulkarem?

10 A I would estimate it at 22,000 to 26,000 residents.

11 MR. TURNER: Now, if we could go to the next
12 slide, same document. We should have one more slide.
13 That's okay. All right.

14 Now, finally if you would, put before the witness
15 1090, page 25.

16 BY MR. TURNER:

17 Q And I want to ask you a second about memorializations
18 and then we're done with the Park Hotel.

19 Do you recognize Exhibit 1090, page 25?

20 A Yes, I do.

21 Q Do you recognize the image? If so, who is it?

22 A I recognize the picture. It says shahid al-Qassam,
23 which means the material member of the al-Qassam,
24 Abdel-Basset Odeh.

25 MR. TURNER: We offer 1090, page 25.

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1 MR. INGERMAN: Same objection with respect to the
2 report, your Honor.

3 THE COURT: I'm not going to admit the exhibit. I
4 will allow it to be shown to the jury for demonstrative
5 purposes as part of the expert's opinion.

6 MR. TURNER: Thank you, your Honor. May we put it
7 up on the slide?

8 THE COURT: Yes.

9 MR. TURNER: This is 1090, page 25, for
10 demonstrative only.

11 BY MR. TURNER:

12 Q Mr. Shaked, do you recognize the individual in the
13 photograph as the suicide bomber responsible for the Park
14 Hotel attack?

15 A Yes, I recognize him.

16 Q And can you interpret the Arabic?

17 A It says first quoted in Arabic, "The shahid member of
18 al-Qassam, Abdel-Basset Odeh, who did the operation in
19 Netanya, the sacrifice operation of Netanya."

20 Q And finally, did you also in addition to all of these
21 other sources of information, have an opportunity to
22 personally interview Abbas al-Sayed in prison?

23 A Yes, did I interview him in jail.

24 MR. TURNER: This is a good stopping point, your
25 Honor.

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1 THE COURT: All right. Ladies and gentlemen,
2 we'll take our lunch break. We'll reconvene at 1:45. Have
3 a good lunch. Don't talk about the case. Stay away from
4 any press coverage. See you in an hour and five minutes.

5 (Jurors exit the courtroom.)

6 THE COURT: Okay. Recess till 1:45.

7 (Luncheon recess taken.)

8 (Continued on the next page.)

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1 (Outside the presence of the jury.)

2 THE COURT: Please bring in the jury.

3 (In the presence of the jury.)

4 THE COURT: Be seated, please.

5 Continue, Mr. Turner.

6 MR. TURNER: Thank you, your Honor.

7 Q Mr. Shaked, have you also had the opportunity to
8 investigate the suicide bombing at a place called the
9 Sheffield Club in Rishon, on May 7th, 2002?

10 A Yes.

11 MR. TURNER: Can we post the slide?

12 THE COURT: You may.

13 Q Were you able to identify the suicide bomber?

14 A Yes.

15 Q Who was the suicide bomber?

16 A At the bottom of the picture, there's the picture of the
17 suicide bomber, Muhammad Muammar.

18 Q Were you able to determine whether Muammar acted alone or
19 whether he was acting for Hamas?

20 A Muammar acted for the Hamas, as member of Hamas, on
21 behalf of Hamas.

22 Q Can you briefly tell us where the Sheffield Club was at
23 the time and what it was?

24 A The Sheffield Club is located in a city called Rishon,
25 south of Tel Aviv, in an industrial zone. It is a club to

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1 which different people come to spend some time in the wee
2 hours of night. They drink there. They play cards, different
3 table games. They also play billiards, for example. It is a
4 place to come, and have fun and enjoy one's self.

5 Q Were you able to determine from your investigation how
6 many people were killed and how many reported injuries there
7 were in this suicide attack?

8 A Yes. Fifteen people got killed and about fifty injured.

9 Q And based on your investigation, who built the bomb?

10 A The bomb was built by the same terrorist we discussed by
11 the name of Abdulla Barghouti.

12 Q The one you interviewed?

13 A Yes, I interviewed him.

14 Q And did you personally talk with him about this terrorist
15 attack as well?

16 A Yes, I discussed the suicide bombing with him.

17 Q In this particular attack, based upon your investigation,
18 how was the bomb disguised?

19 A In this case, it was a relatively large explosive charge.
20 Some of it was hidden in a bag in which there were shampoo
21 bottles that the explosives were inserted into to; the other
22 part was in an explosive built in like other cases of
23 terrorist attacks.

24 Q In discussions, including your conversation with
25 Barghouti, did you learn information about ball bearings and

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1 screws, things of that nature, in these bombs?

2 A Yes.

3 Q What did you learn?

4 MR. INGERMAN: Objection, your Honor.

5 THE COURT: Overruled. Well, I'm going to sustain
6 that objection.

7 MR. TURNER: So you understand that he cannot
8 answer?

9 THE INTERPRETER: Yes.

10 Q Mr. Shaked, during the course of your investigation of
11 these 24 attacks, and especially in the multiple attacks that
12 Barghouti, the bomb maker, was involved in, in your
13 interviews, were you able to determine a course, or pattern or
14 practice of Barghouti, including certain items in bombs for
15 maximum effect?

16 MR. INGERMAN: Objection.

17 THE COURT: Sustained as to form.

18 Q Were you able to learn any information during your
19 investigation from Barghouti or any other source information
20 about the contents of bombs?

21 MR. INGERMAN: Objection.

22 THE COURT: Sustained.

23 Q Now, you have two individuals on your chart, both by the
24 name of Abbasi. Do you see those individuals in the lower
25 right-hand corner?

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1 A Yes, I can see them.

2 Q What role did each play in the attack in Rishon?

3 A The first one was Wisam Abbasi. He is a member in Hamas
4 organization. He was the one to choose the Sheffield club as
5 the sight for the terror attack, whereas Ala Abbasi, on the
6 right-hand side of the picture, was an active member of Hamas.
7 He collected information about the target, which is the
8 Sheffield Club in Rishon.

9 Q To the right and left of Abdulla Barghouti, on the right
10 side, there's Wael Qassam and Muhammad Arman. Are those the
11 same two individuals we've seen previously in some of the
12 attacks?

13 A Indeed, these are the same two that were involved in
14 previous terrorist attacks.

15 Q Likewise, have we previously seen Ibrahim Hamed?

16 A Yes, we did see Ibrahim Hamed was the senior commander of
17 Hamas in Ramallah.

18 MR. TURNER: If you would only show the witness,
19 please, 3598.

20 Q Do you recognize 3598?

21 A Yes, I do.

22 Q What is 3598?

23 A This is the official claim of responsibility by Hamas for
24 the perpetration of the terror attack at the Sheffield Club.

25 Q What is the source of 3598, please?

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1 A The source is the Internet website of Qassam Brigade, the
2 military wing of Hamas.

3 MR. TURNER: We would offer that into evidence,
4 your Honor.

5 THE COURT: Same objection?

6 MR. INGERMAN: Yes, your Honor.

7 THE COURT: Received over that objection.

8 (Plaintiffs' Exhibit 3598 was received.)

9 MR. TURNER: Let's go to the slide, if you would,
10 Mr. Miller, with the English version on it.

11 Is that all right, your Honor?

12 THE COURT: Yes. We're putting it up.

13 Q Now, there are a couple of things that I would like to
14 talk to you about very briefly first off.

15 MR. TURNER: First of all, if you could blow up the
16 lower paragraph, and let's talk about the description of the
17 attack for a moment.

18 Q Take a moment and read that to yourself, if you would,
19 Mr. Shaked. My question is, is that consistent with the other
20 information you were able to find during your investigation of
21 this terrorist attack?

22 A Yes.

23 MR. TURNER: Now, if you could back out of that,
24 Mr. Miller, and enlarge the first paragraph. Starts
25 without -- no, go back to the exit right up there.

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1145

1 Q Now, this particular part of the official claim of
2 responsibility indicates that, without revealing their names,
3 in addition, some of their valiant brothers of al-Qassam
4 carried out many operations for which we did not claim
5 responsibility, at the time, due to difficult security
6 conditions.

7 Based on your investigation, can you explain what
8 that means in terms of security in Israel?

9 MR. INGERMAN: Objection.

10 THE COURT: The witness can state his understanding
11 of what it means.

12 THE WITNESS: I understand there are cases in which
13 Hamas would not claim official responsibility as quickly as it
14 does in other cases, and that is for security reasons. They
15 might not want to harm the family, or other perpetrators or
16 other people who are still alive and related to the case, to
17 this specific terror attack, and have not been arrested yet.
18 And this is why, for security reasons, they would delay the
19 publicity or the publication of this claim of responsibility.

20 Q Now, the second sentence in this particular excerpt
21 indicates this official claim of responsibility was delayed
22 for five years. Was that something that you saw from time to
23 time in investigating these 24 attacks, this type of delay?

24 A Yes, I have seen something like that, but not five years.

25 MR. TURNER: Now, your Honor, may I display 3811,

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1 which is in evidence, but only the portion that pertains to
2 the Rishon terrorist attack?

3 THE COURT: Yes.

4 Q Now, this is the ISA report or at least the portion of
5 the Israeli Security Agency report that provides information
6 about the Rishon terrorist attack; is that correct?

7 A Yes.

8 Q And did this information published by the ISA help you
9 cross-check the information you were finding from the other
10 sources, in terms of the identity of not only the suicide
11 bomber but some of the other participants in the attack?

12 A Yes, it was of help to me.

13 MR. TURNER: If you could show the witness only
14 3513, please.

15 Q Do you recognize 3513?

16 A Yes, I do.

17 Q And what in general is 3513?

18 A This is a statement, a document published by the
19 Premier's Office, in which it brings the statement made by the
20 ISA, exposing the terror infrastructure that carried out the
21 terror attacks in Rishon and also another place, and that was
22 on a street in Tel Aviv.

23 Q Did 3513, likewise, assist you in cross-checking the
24 accuracy of the information you were finding?

25 A Indeed, it is another source to cross-check reference.

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1 Q Although we've already seen these and will not look at
2 them again, 3356 and 3658 are both already in evidence as
3 Apostille convictions of Barghouti and Muhammad Arman. Did
4 those, likewise, assist you in your investigation, in trying
5 to determine whether Hamas was responsible for this terrorist
6 attack?

7 A Indeed, so.

8 Q Now, in addition to Barghouti, did you also have an
9 opportunity to personally interview Wael Qassam?

10 A Yes, I interviewed Wael Qassam as well.

11 Q In interviewing Wael Qassam, was that in prison?

12 A Yes, I interviewed him when he was in prison.

13 Q And did that interview, likewise, assist you in
14 confirming your conclusions?

15 A Yes, it did help me confirm that evidence in the
16 materials that I already had.

17 Q Now, in terms of memorialization, did you also have an
18 opportunity to review any information indicating that a
19 mourners' tent, a ceremonial mourners' tent, was prepared by
20 Hamas for this particular terrorist suicide bomber?

21 A Yes, a mourners' tint was put up in memory of the suicide
22 bomber.

23 Q Did you also have an opportunity to investigate the
24 bombing of Bus 32-A, near a place called Pat Junction, in
25 Jerusalem that occurred in June of 2002?

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1 A Yes, I did.

2 Q Were you able to determine who the suicide bomber was in
3 the Pat Junction Bus 32-A terrorist attack?

4 A Yes.

5 MR. TURNER: May we display the slide?

6 THE COURT: Yes.

7 Q Would you tell the ladies and gentlemen who the suicide
8 bomber was of Bus 32-A, near Pat Junction, in Jerusalem?

9 A The suicide bomber was Muhammad al Ghoul, an MA student
10 at the University in Nablus.

11 Q Were you able to determine whether al Ghoul was acting on
12 his own or whether he was acting for Hamas in carrying out
13 this terrorist attack?

14 A Muhammad al Ghoul acted for Hamas, on behalf of Hamas, in
15 the name of Hamas.

16 Q What role did Fahmi Mashahrah play in this particular
17 attack?

18 A Fahmi Mashahrah lived in east Jerusalem, was an
19 operative, planned the attack and dispatched the bomber to the
20 bus stop where it was carried out.

21 Q What role did Ramadan Mashahrah play?

22 A Ramadan is Fahmi's brother. They planned this attack
23 together as a family. They're both members -- were both
24 members of Hamas. They planned it together. They decided
25 where it would be carried out. They dispatched the suicide

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1 bomber together to the bus stop.

2 Q What about Muhamad al-Taher? What role did al-Taher play
3 in this particular attack?

4 A Muhamad al-Taher is a senior commander of Hamas in
5 Nablus. He was the one who recruited the suicide bomber to
6 carry out this attack.

7 Q And, finally, Ali Anan?

8 A Ali Anan is the Hamas commander in southern West Bank.
9 He is the person who actually put the explosive belt on the
10 suicide bomber, Muhamad al Ghoul, and coordinated the attack.

11 Q So we understand where Pat Junction is, can you describe
12 for us very briefly where Pat Junction is within Jerusalem and
13 the significance of Bus 32-A?

14 A It's -- Pat Junction is located between the center of
15 Jerusalem and a neighborhood called Gilo, which is populated
16 by middle to lower class people who are in need of public
17 transportation in order to go to work and especially students
18 and pupils going to school.

19 Q During the course of your investigation, were you able to
20 determine anything about the suicide bomber, al Ghoul, in
21 terms of his relationship to Hamas and his prior activity
22 within Hamas?

23 A Muhamad al Ghoul was an operative in Hamas, in the
24 University in Nablus. Based on the details I was able to
25 gather, he had tried twice before to carry out the suicide

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1 bombing but had been unsuccessful, and he succeeded the third
2 time.

3 MR. TURNER: Show the witness only, please, 33611.

4 Q Can you identify 3611?

5 A Yes, I can.

6 Q What is 3611, please?

7 A This is the official claim of responsibility taken by Izz
8 al-Din al-Qassam. They're taking responsibility for the bus
9 attack at Pat Junction in Jerusalem.

10 Q What is the source of 3611?

11 A It is the official Internet site of Izz al-Din al-Qassam,
12 the military wing of Hamas.

13 Q Did this particular Exhibit, 3611, the official claim of
14 responsibility for this terrorist attack by Hamas, assist you
15 in concluding that Hamas was responsible?

16 A Yes, it did help me to determine that Hamas is
17 responsible -- was responsible for the attack.

18 MR. TURNER: We offer 3611.

19 THE COURT: That's received over objection.

20 (Plaintiffs' Exhibit 3611 was received.)

21 Q With respect to the ISA, were you able to review the
22 section of the ISA report pertaining to this particular
23 terrorist attack, which is previously been marked as 3811?

24 A Yes, I reviewed that part of the ISA report regarding the
25 role of the suicide bomber in this attack.

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1 Q Did that assist you in reaching your conclusion?

2 A Yes, it helped me to draw my conclusions and to
3 cross-check my information.

4 Q In addition the ISA report, did you also have access to
5 other government records, for instance, the conviction records
6 of the Mashahrah brothers?

7 A Yes, I read the legal reports, and I followed the trial
8 of these two people.

9 MR. TURNER: Could you show the witness only,
10 please, 3617?

11 Q Do you recognize 3617?

12 A Yes, I do.

13 Q What is 3617?

14 A Yes, this is the verdict of the military court that tried
15 Fahmi Mashahrah, one of the brothers.

16 MR. TURNER: We offer 3617 as Apostille conviction
17 record of Fahmi Mushahrah.

18 THE COURT: Received over objection.

19 (Plaintiffs' Exhibit 3617 was received in
20 evidence.)

21 MR. TURNER: Show the witness, please 3647.

22 Q Can you identify 3647?

23 A Yes, I can.

24 Q What is 3647?

25 A This is a conviction of the other brother, whose name is

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1 Ramadan Mashahrah.

2 Q And have you had an opportunity to review this conviction
3 record?

4 A Yes.

5 Q Were you actually in the courtroom the day of Ramadan
6 Mashahrah sentencing?

7 A Yes, I was present in the courtroom.

8 Q And was the terrorist required to allocute or stand up in
9 court and announce what he was guilty of?

10 A Yes, he was -- the terrorist was asked to allocate and
11 confess to his crimes.

12 Q Were you present to hear that confession?

13 A I was present at the confession.

14 Q And after the sentencing, did you obtain a copy of those
15 conviction records?

16 A Yes, I got it from the clerk in the court.

17 Q And was what you heard in the courtroom, what you heard
18 Ramadan Mashahrah say in the courtroom consistent with the
19 record you're now looking at on the screen?

20 A Yes.

21 MR. TURNER: We would offer 3647 as a non-Apostille
22 conviction record of Ramadan Mushahrah for this attack.

23 THE COURT: Received over objection.

24 (Plaintiffs' Exhibit 3647 was received in
25 evidence.)

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1 MR. TURNER: Show the witness, please, only 3645.

2 Q Can you identify this Israel Ministry of Foreign Affairs
3 document?

4 A Yes, I can identify it.

5 Q Does this relate to the terrorist attack at Pat Junction
6 in Jerusalem?

7 A It is, indeed.

8 Q And in cross-checking the various sources of information
9 available, did this assist you in confirming that Hamas was,
10 in fact, responsible for this attack?

11 A It did, indeed.

12 MR. TURNER: Show the witness only, please, 3625.

13 Q Can you identify 3625?

14 A Yes, I can identify it.

15 Q What is 3625?

16 A This is the expert opinion of a police explosives' expert
17 who examined the findings at the site of the terror attack,
18 and this is the report on what he found.

19 Q Is this the type of report that you've seen over the past
20 30 years?

21 A Yes, this document is very similar to other documents
22 that I have seen.

23 Q What is the source of this particular document?

24 A The source is the Israel police.

25 Q Did this document assist you in cross-referencing the

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1 various factual pieces of information you found during the
2 course of your investigation, linking Hamas to this terrorist
3 attack?

4 A Yes, it did help me.

5 Q Is this sometimes referred to in Israel as a SAPA
6 (phonetic) report?

7 A Yes, it is.

8 MR. TURNER: We offer 3625.

9 THE COURT: All right. Received over objection.

10 (Plaintiffs' 3625 was received in evidence.)

11 MR. TURNER: Show the witness only, please, 3613.

12 Q In addition to these other sources of information, did
13 you, likewise, in this particular case, have access to a will
14 of the suicide bomber prepared prior to the terrorist attack?

15 A Yes, I saw and read the will of the suicide bomber.

16 Q And in the will itself, there is an image. Were you able
17 to identify the image?

18 A Yes, I can identify that image.

19 Q Who is the photograph of?

20 A It is a picture of the suicide bomber Muhammad al Ghoul.

21 Q What is the source of the will? Where did you get it?

22 A The will was published on the official site of Hamas on
23 the Internet.

24 Q Did this information assist you in determining that
25 al Ghoul was, in fact, the suicide bomber responsible for the

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1 deaths and injury at this particular terrorist attack?

2 A Yes, it did help me.

3 MR. TURNER: We offer 3613.

4 MR. INGERMAN: You've already excluded that,
5 your Honor.

6 THE COURT: I think I did.

7 MR. TURNER: Show the witness only, please, 3636.

8 Q Can you identify 3636 as specifically the person in the
9 image?

10 A Yes, I can, and I can identify the person who appears in
11 the picture.

12 Q And does this relate to the Bus 32-A bombing at Pat
13 Junction?

14 A Yes, it was related to the bus at the Pat Junction.

15 Q And does this relate in any way to Hamas, and, if so, how
16 do you know that?

17 A This is a picture of Muhammad al-Taher, the commander of
18 Hamas, in Nablus, whom I'm familiar with. It says it also on
19 the picture. Around him are pictures of terrorists for whom
20 he built bombs, and this is in order to glorify his name, as
21 it were. And there's also a picture of the terrorist who blew
22 up the bus at the Pat Junction.

23 Q Is this one of the memorialization-type materials or
24 sources of information that assisted you?

25 A Yes, this is, indeed, a memorialization material related

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1 to Hamas.

2 Q Did you have an opportunity to investigate the bombing
3 that took place at Hebrew University in July of 2002, at
4 something called the Frank Sinatra student cafeteria in
5 Jerusalem?

6 A Yes, I did investigate the terror attack that was carried
7 out in the Frank Sinatra cafeteria at Hebrew University in
8 Jerusalem.

9 Q Were you able to determine the responsible party or at
10 least some of the responsible parties involved in this
11 terrorist attack?

12 A Yes, Hamas was responsible for this terror attack, and
13 based on my finding, there were a number of people who were
14 connected with this terror attack.

15 MR. TURNER: May we display the slide?

16 Q How many people were killed in this particular terror
17 attack at Hebrew University?

18 A Nine students and university faculty were killed in this
19 terror attack.

20 Q And how many were reported to be injured?

21 A There were about 70 people injured as a result of the
22 explosion.

23 Q Now, your slide has three individuals at the bottom.
24 First of all, the two Abassi names, what roles did they play
25 in this particular attack?

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1 A If we go from left to right, we have Muhammad Abassi. He
2 worked in the university, and he was a Hamas operative, and he
3 chose the place where the terror attack would be carried out.

4 THE INTERPRETER: Excuse me. I would like to
5 correct. He chose the place where to place the bomb.

6 THE WITNESS: In the middle of the picture, we have
7 Allah Abbasi. He was Hamas operative. He collected the
8 intelligence on the target for the attack.

9 Q What about Muhammad Odeh?

10 A I mentioned Muhammad Odeh earlier. I think you may be
11 referring to Wisam Abbasi --

12 Q I'm sorry.

13 A He was also among those who collected intelligence and
14 various details on the place where to place the bomb,
15 regarding the cafeteria.

16 Q The three in the middle row we've seen on some of the
17 other attacks; Wael Qassam, Abdulla Barghouti, and Muhammad
18 Arman. Were you able to determine during the course of your
19 investigation that these individuals were, in fact, involved
20 in this particular attack?

21 A Yes, I could determine that those three were directly
22 related to the terror attack.

23 Q Did -- your personal interviews of Barghouti and Qassam,
24 while they were in jail, did those assist you in reaching
25 conclusions about the perpetrators of this particular

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1 terrorist attack and Hamas' role?

2 A Yes, in the interviews I conducted with them, they told
3 me about it, and that was a great help to me when I came to
4 cross-check it and to reach my conclusions.

5 MR. TURNER: You might pull that microphone a little
6 bit closer.

7 THE INTERPRETER: Sorry.

8 Q Tell us a little bit about Hebrew University and the
9 Frank Sinatra cafeteria. Where is that located, and why is
10 this particular place significant in terms of attacks like
11 this?

12 A The cafeteria -- the Frank Sinatra cafeteria is in a very
13 central place at the University of Jerusalem. It is the
14 central cafeteria where I myself have been dining daily for
15 the past four years. There are many students who go there not
16 only to eat but also to meet one another and spend time. It
17 is a relatively large place that is always crowded around
18 lunchtime, which is the time they go and have their lunch, not
19 just students but also teachers and professors. This is also
20 a central meeting point for students.

21 MR. TURNER: Would you show the witness only, please
22 3676.

23 Q Can you identify 3676?

24 A Yes.

25 Q What is 3676, please?

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1 A This is the written official claim of responsibility made
2 by Hamas for the terror attack at the Hebrew University in
3 Jerusalem.

4 Q How do you know this is from Hamas?

5 A Because it has the insignia of Hamas. It has the
6 official logo of Hamas. It has the special language used by
7 Hamas, including slogans of Hamas. And according to my
8 experience and what I read in other statements and claims of
9 responsibility, Hamas documents I conclude that this is,
10 indeed, Hamas.

11 Q How did you first personally receive this particular
12 claim of responsibility?

13 A I think it was three-and-a-half hours after the attack.
14 When I returned from the Hebrew University to my office in the
15 center of town, my secretary handed it over, this document
16 that arrived by fax.

17 Q And were you able to identify the fax number that it came
18 from?

19 A No, I couldn't.

20 Q And did you subsequently learn any additional information
21 confirming Hamas' role in this particular attack?

22 A Indeed, I did receive many more documents and testimonies
23 that prove that this was an act done by Hamas.

24 Q One of the sources of information would be conviction
25 records. Did you have access in this particular case to

Sidebar

1160

1 conviction records relating to the Sil Won (phonetic) cell for
2 this particular attack?

3 MR. INGERMAN: Your Honor, may we approach?

4 THE COURT: Sure.

5 THE WITNESS: Your Honor, may I go to the bathroom
6 for a minute?

7 THE COURT: The answer is yes. I guess you can't
8 wait 20 minutes.

9 THE WITNESS: I'll wait. Thank you.

10 (Sidebar held outside the presence of the jury.)

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Sidebar

1161

1 MR. INGERMAN: Your Honor, with respect to 3676, I
2 think they put the cart before the horse there. I thought he
3 was going to be able to authenticate it in some way. He
4 couldn't. The testimony to the jury was that he saw an
5 official claim of Hamas, and I'd ask that that testimony be
6 struck.

7 THE COURT: Well, they haven't moved the exhibit in.

8 MR. INGERMAN: I agree with that, which is why it
9 shouldn't have been read in before authentication.

10 THE COURT: I don't think he read it in. He
11 described it generically as official claim of responsibility
12 by Hamas. I don't think he read a part.

13 MR. INGERMAN: No, but -- the description was
14 official that he provided, left the jury with the
15 understanding that it was an official claim of responsibility
16 by Hamas.

17 THE COURT: I think the jury understands that he is
18 basing his opinion on something that he considers to be an
19 official statement of responsibility from Hamas, that has not
20 been moved into evidence. It's been testified to as part of
21 the basis for his opinion, and I think it's okay for an expert
22 to do that, so I'll overrule the objection.

23 (Sidebar concluded.)

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1 (In the presence of the jury.)

2 THE COURT: All right. Ladies and gentlemen, we're
3 going to take our afternoon break now. We will reconvene at
4 five minutes to 3:00. You know not what to talk about. So
5 we'll see you in 15 minutes. Thank you very much.

6 (Outside the presence of the jury.)

7 THE COURT: Five to 3:00.

8 (Recess in proceedings.)

9 (Proceedings continued on the following page.)

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1 (Honorable Brian M. Cogan takes the bench.)

2 THE COURT: Jury please.

3 (Jury is in the courtroom at 2:57 p.m.)

4 THE COURT: Be seated. Continue, Mr. Turner.

5 MR. TURNER: Thank you, your Honor.

6 DIRECT EXAMINATION (Continued)

7 BY MR. TURNER:

8 Q I believe when we broke, Mr. Shaked, we were talking
9 about Exhibit 3592, which is already in evidence. It is the
10 conviction records of associated with the Silwad cell which
11 included the Hebrew University bombing. Are you familiar
12 with that fact?

13 A Yes.

14 Q And did those conviction records affirm for you your
15 conclusions that Hamas was responsible for the terrorist
16 attack at Hebrew University in the Frank Sinatra Cafe?

17 A Yes, they do assist me in making this determination.

18 Q Did you have an opportunity to investigate the bombing
19 on Bus Number 4 Allenby in Tel Aviv that occurred on
20 September 19, 2002?

21 A Yes.

22 Q And were you able to identify the suicide bomber on
23 Bus 4?

24 A Yes.

25 MR. TURNER: May we display the slide?

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1 THE COURT: Yes.

2 Q Who was the suicide bomber?

3 A Hi name is Iyad Raddad.

4 Q Were you able to determine whether or not Raddad was
5 acting on his own or working for Hamas when he carried out
6 the terrorist attack Bus Number 4 Allenby Street?

7 A No, he was not on his own, he operated on behalf of
8 Hamas, for Hamas, as a member of Hamas.

9 Q So that we have an understanding of Allenby Street, can
10 you please describe for us back in 2002 what Allenby Street
11 was in Tel Aviv and the significance of Bus Number 4?

12 A Allenby Street is the center street in Tel Aviv leading
13 from north to south. It is an extremely crowded street. It
14 is a center for shopping, restaurants and entertainment.
15 Right next to where the explosion took place, there is also
16 a synagogue. The attack took place in the junction of
17 Voltribe (phonetic) Boulevard and Allenby Street. This is a
18 very, very central junction in Tel Aviv. I could compare it
19 to the 5th Avenue and 42nd Street of New York, it is the
20 very hub of Tel Aviv.

21 Q Now, you've got four individuals shown on the slide
22 depicting the terrorists involved in this particular attack.
23 Again, beginning at the top, we already talked about the
24 suicide bomber at the bottom, beginning at the top, Ibrahim
25 Hamed. Is that the same gentleman that we've seen in a

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1 number of other attacks?

2 A Indeed, it is the same Ibrahim Hamed, a senior Hamas
3 commander in the West Bank in Ramallah.

4 Q And what about Hasnin Rumana, what role did he play in
5 Hamas?

6 A Hasnin Rumana was a senior Hamas member. He was the
7 military commander of Hamas. He was the liaison between
8 Mahmoud Sharitah, the third one that appears in the slide,
9 and he was the one that connected between the higher
10 headquarters of Hamas and had a key role in this terror
11 attack.

12 Q And what was Sharitah's role in this terror attack?

13 A He was a senior member of Hamas. He was a student in
14 the largest university of the West Bank. He did not reside
15 in Ramallah, which is located south of West Bank. He was
16 the one who recruited and dispatched the suicide bomber to
17 perpetrate the attack in Tel Aviv.

18 MR. TURNER: Show the witness only, please, 3694.

19 Q Can you identify 3694, sir?

20 A Yes, I do.

21 Q What is 3694?

22 A This is the official claim of responsibility by Hamas
23 for the terror attack on Allenby Street in Tel Aviv.

24 Q What is the source of 3694?

25 A It is the official internet website of Hamas.

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1 MR. TURNER: We offer 3694.

2 THE COURT: All right. Received over objection.

3 (Plaintiff Exhibits 3694 was admitted into
4 evidence.)

5 Q In addition to the official claim of responsibility,
6 did you have access to the Israel Security Agency report
7 reporting the details of the investigation surrounding this
8 particular attack in Tel Aviv?

9 A Yes, I did have access to that.

10 MR. TURNER: May we display 3811, which is in
11 evidence, but only the portion pertaining to the Allenby
12 Attack?

13 THE COURT: Yes.

14 Q The ISA report, Mr. Shaked, indicates that Raddad was,
15 in fact, the suicide bomber. Is that, in fact, consistent
16 with your findings?

17 A Yes, this is consistent with my findings.

18 Q It also indicate that Raddad was originally from Jordan
19 and was the age 23. Is that consistent with what you found?

20 A Yes, I did confirm that.

21 Q The terrorist Sharitah's name is also referenced in
22 this particular report. Is that consistent with your
23 findings?

24 A Indeed, sir.

25 Q Now, let's go to --

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1 MR. TURNER: Show the witness only, please, 3692.

2 Q Can you identify 3692?

3 A Yes, I can.

4 Q Can you generally describe what 3692 is, please, sir?

5 A This document is a document issued by the police
6 laboratory, which examined the findings in the scene and
7 brought those findings that actually informed them about the
8 materials used by the terrorist in order to build the bomb.

9 Q Did 3692 assist you in reaching your conclusions that
10 Hamas was, in fact, responsible for this particular attack?

11 A Yes, the findings did assist me.

12 Q And what is the source of 3692, what agency does that
13 come from in the government in Israel?

14 A The entity examining such cases is the Israel police.
15 It came from the forensic department of the Israel Police.

16 MR. TURNER: We offer 3692.

17 THE COURT: All right. Received over objection.

18 (Plaintiff Exhibit 3692 was admitted into
19 evidence.)

20 MR. TURNER: Would you show the witness, please,
21 3513.

22 Q Can you identify 3513?

23 A Yes, I can.

24 Q What is 3513?

25 A This is a report issued by the prime minister's office

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1 which described two terrorist attack after they were
2 uncovered and after the cell that perpetrated them was
3 uncovered. One of them was the attack on Allenby Street in
4 Tel Aviv.

5 Q Did this likewise assist you in confirming and
6 crosschecking the information to make sure that it was
7 accurate?

8 A Yes, it did help me crosscheck the information.

9 Q Now, in addition to these other sources, did you also
10 have available to you conviction records for people
11 associated with the Allenby attack?

12 A Yes, I did.

13 MR. TURNER: Can you please show the witness 3686.

14 Q Can you identify 3686?

15 A Yes, I can.

16 Q What is 3686?

17 A This is Mahmoud Sharitah. He is the person who
18 dispatched the suicide bomber to the attack. I'm sorry,
19 this is the verdict. Sorry. This is the verdict of Mahmoud
20 Sharitah, the person who dispatched the suicide bomber to
21 the attack.

22 Q With Sharitah, did he confess, according to these
23 records, or did he plead guilty, what happened in this court
24 proceeding?

25 A Sharitah indeed confessed to his action and it was

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1 based on that confession that he was convicted.

2 MR. TURNER: Your Honor, we offer 3686, which is
3 the Apostilled conviction record of Sharitah.

4 THE COURT: All right. It's received over
5 objection.

6 (Plaintiff Exhibit 3686 was admitted into
7 evidence.)

8 Q Now, in addition to -- let me back up one second. We
9 were looking at the ISA report and there was a reference to
10 the fact that Raddad was originally from Jordan. Is that
11 significant in terms of timing of the reporting of this
12 particular attack by Hamas?

13 A Yes, because the claim of responsibility by Hamas,
14 which included the name of Raddad, was issued five years
15 after the Allenby bombing.

16 Q Now, in addition to conviction records, did you also
17 have access to conviction records of Ibrahim Hamed at some
18 point in time?

19 A Yes, I did have access.

20 Q Did those records likewise assist you in either way,
21 either confirming or rejecting the notion that Hamas was
22 responsible for the Allenby attack?

23 A Yes, it helped me.

24 Q Now, did you also have an opportunity to investigate a
25 shooting attack on Route 60 that occurred in January of

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1 2003, that resulted in two people being injured?

2 A Yes, I did investigate that.

3 Q And were you able to, through the course of your
4 investigation, identify the terrorist involved in this
5 particular ambush?

6 A Yes, I was able to identify the two shooters.

7 MR. TURNER: May we display the slide?

8 Q During the course of your investigation, Mr. Shaked,
9 who did you identify as the shooters involved in this
10 particular attack?

11 A At the bottom of the page we can see the pictures and
12 names of Yasser Hamad and Farah Hamad, who were shooters,
13 and they're both members of the Silwad cell.

14 Q And during the course of this investigation, were you
15 able to determine whether the shooters carried out this
16 ambush or attack on their own or by and for Hamas?

17 A The attack was carried out for Hamas, by Hamas
18 operatives and directed by Hamas headquarters.

19 Q Would you describe for us Route 60, where it's located
20 and what route or route that particular road provides access
21 to within the West Bank and Jerusalem area?

22 A Highway 60 is the main longitudinal artery in the West
23 Bank. It goes from north to south and branches off in
24 various places in the east and to the west. It leads to
25 various village, towns and cities. It is also the road that

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1 the settlers mainly use when travelling from Jerusalem to
2 the north or to the south.

3 Q Let's go back to your slide for a minute and let's
4 focus on the lower group of photographs and the two people
5 on the end. We've talked about the shooters. What role did
6 Hamdan and Omar play in this particular attack?

7 A We have to bear in mind that a shooting attack is
8 different than a suicide bombing; in such a case, more
9 people are involved, there are the shooters and other people
10 as well. And so we have here on the right, Muayad Hamad,
11 and he was the get away driver. He is the one that drove
12 the car away from the site of the attack and Khaled Omar on
13 the right, he was the commander, the planner of the
14 operation as it was carried out.

15 Q What role did Hisham Hijazi play?

16 A He was the commander that coordinated between the
17 headquarters and the cell. He was the one that provided the
18 money and the weapons, and he also helped to plan the
19 operation.

20 Q And how about Jesser Barghouti?

21 A He was also senior commander in Ramallah. He was a
22 field commander. He obtained, supplied and transferred the
23 money and arms as well, and gave orders on how and what to
24 do.

25 Q Now, Sayd Qasem and Ibrahim Hamed, who are shown at the

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1 top two levels, are those individuals that we already
2 discussed?

3 A Yes, we've already discussed Ibrahim Hamed. He was the
4 commander of the military wing of Hamas in the Ramallah
5 area. And Sayd Qasem, who was his deputy, and he was his
6 operational officer as it were and oversaw the attack.

7 Q And finally, Murad Barghouti. What role did Murad
8 Barghouti play?

9 A There were a number of terror cells operating in this
10 area the role of Barghouti, Murad Barghouti was to be the
11 liaison between the various cells, in order to -- in the
12 Ramallah area in order to advance terror.

13 MR. TURNER: Would you please show the witness
14 3719.

15 Q Can you identify 3719?

16 A Yes, I did.

17 Q What is 3719?

18 A This is a document that tells the history of the cell
19 in the Ramallah area. It is taken from the official website
20 of Hamas.

21 Q And is the source of the document indicated on the
22 document?

23 A Yes. As you can see here on the source it says here
24 Izz ad-Din al-Qassam, the source appears in both English and
25 in Arabic.

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1 Q And did 3719 provide any information about the attack,
2 the shooting attack on Route 60 that occurred in January of
3 2003?

4 A Yes, it does.

5 Q Is this sometimes referred to as a special report?

6 A Yes, this is indeed a special report. That is,
7 dissimilar, unlike other reports, we're talking about a
8 different type of terror attack. Unlike the suicide
9 bombers, in this case, the perpetrators were apprehended and
10 were in prison in Israel. So this -- this is a special
11 report and it is longer than most of the others.

12 MR. TURNER: We offer 3719.

13 MR. INGERMAN: You've already excluded it, your
14 Honor.

15 THE COURT: I did.

16 MR. TURNER: Can I have the witness look at 3744,
17 please.

18 Q Can you identify 3744?

19 A Yes, I do.

20 Q And what is 3744?

21 A This is taken from the official website of Hamas. It
22 is the opening page. It gives detailed history of the
23 terror cell, but not only this particular cell that did the
24 shooting, but three others as well.

25 Q Now, we've talked thus far about the al-Qassam website,

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1 which is part of Hamas. Did Hamas also have a different
2 website?

3 A Hamas, in fact, had two official websites. One was the
4 political part of the political bureau, and the other
5 represented the military wing, but they were both official
6 sites.

7 Q What was the political wing's website called or
8 referred to?

9 A The political wing's website is called "Palestine Info"
10 and it represents the special information unit of Hamas.

11 Q And is 3744 from the Palestinian Information Center?

12 A Yes, it does.

13 Q Did it assist you in crosschecking the facts
14 surrounding the Route 60 shooting?

15 A Yes, it did. As I noted, a lot of details were given
16 in it.

17 MR. TURNER: We offer 3744 as redacted.

18 THE COURT: Okay. Consistent with my earlier
19 ruling, it's admitted over objection.

20 (Plaintiff Exhibit 3744 was admitted into
21 evidence.)

22 MR. TURNER: Could you also put before the
23 witness, 3893.

24 MR. INGERMAN: Your Honor, can we have a quick
25 sidebar on this?

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THE COURT: Sure.

(Continued on the next page for sidebar.)

SIDEBAR CONFERENCE

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1 (Sidebar conference begins.)

2 THE COURT: What's the problem? Everything is out
3 except the picture and the end.

4 MR. INGERMAN: Well, let me just show you, your
5 Honor.

6 THE COURT: Everything was out below the picture
7 and starting -- picking up here right.

8 MR. INGERMAN: Above the picture it says, the
9 imprisoned --

10 THE COURT: I took it out.

11 MR. INGERMAN: But why?

12 THE COURT: You want it in?

13 MR. INGERMAN: Yes.

14 THE COURT: But you didn't tell me that before.

15 MR. INGERMAN: Well, you said everything below the
16 picture was going to be redacted.

17 THE COURT: I see. I see. Do you have any
18 objection by the plaintiff in unredacting those two lines?

19 MR. OSEN: No. If the jury doesn't have it yet,
20 we'll make it.

21 THE COURT: We'll give it to the jury.

22 MR. INGERMAN: Thank you.

23 (End of sidebar conference.)

24 (Continued on the next page.)

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1 THE COURT: All right. Let's proceed.

2 MR. TURNER: Please show the witness 3893.

3 Q Can you identify 3893?

4 A Yes.

5 Q What is 3893?

6 A It is a document of the Izz ad-Din al-Qassam Martyrs
7 Brigade taken from the official website of Hamas in which it
8 details the earlier attacks that we are discussing here.

9 Q And did 3893 assist you in reaching the conclusions
10 that you did about Hamas' role in the attack on Route 60 in
11 January of 2003?

12 A Indeed, it is another document that helped me
13 crosscheck the material and to determine my opinion.

14 MR. TURNER: We offer 3893.

15 THE COURT: Mr. Turner, how come you're offering
16 documents that I've excluded?

17 MR. TURNER: My note didn't say that. I
18 apologize.

19 THE COURT: All right. Well, check again tonight,
20 but that's excluded.

21 MR. TURNER: Show the witness 3741, please.

22 Q Can you identify 3741?

23 A Yes, I do.

24 Q What is 3741?

25 A It is the verdict that was handed down against Muayad

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1 Hamad, a member of the shooters cell living in Silwad.

2 Q And what was the result of the conviction?

3 A He pled guilty and was sentenced to life sentence.

4 MR. TURNER: We offer 3741 as Apostilled.

5 THE COURT: All right. That's received over
6 objection.

7 (Plaintiff Exhibit 3741 was admitted into
8 evidence.)

9 Q Did you also have an opportunity to investigate the
10 bombing of Bus 37 in Haifa in March of 2003?

11 A Indeed.

12 Q Were you able to conclude who was responsible for that
13 particular bombing?

14 A Yes.

15 MR. TURNER: May we display the slide?

16 THE COURT: Yes.

17 Q Could you please identify who you determined was the
18 suicide bomber involved in this particular attack on Bus 37?

19 A At the very bottom center of the slide you can see the
20 picture of Mahmoud Qawasmeh who carried out the attack on
21 Bus 37 in Haifa.

22 Q And what did your investigation reveal about Qawasmeh?

23 A Qawasmeh was a Hamas operative, a student at the
24 University of Hebron. He studied computers and was
25 recruited to Hamas. And on behalf of Hamas, went out and

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1 carried out the attack in Haifa.

2 Q And were you able to determine whether or not Qawasmeh
3 was acting on his own or was he acting for Hamas in carrying
4 out the suicide attack on Bus 37?

5 A Qawasmeh carried out the attack on behalf of Hamas, as
6 Hamas, member for Hamas.

7 Q Back in 2003 where was Haifa and what was Bus 37?

8 A Haifa is a port city in Israel. It is located in the
9 northern part of the country. It is located on the slopes
10 of a mountain. And in trying to compare it to anything
11 here, then you can envision San Francisco, you can see the
12 mountain and the port. And Bus 37 was one of the most
13 central bus lines commuting from downtown Haifa all the way
14 up to the University of Haifa, which is a very large
15 university. So many students would commute by this
16 particular bus line.

17 Q How many people were killed and injured in this
18 particular attack?

19 A 17 people were murdered in this terror attack and 53
20 were injured.

21 Q What role did Ali Alan play in this attack?

22 A Ali Alan was the commander of Hamas organization in the
23 southern area of the West Bank. He was the one to command
24 that terror attack. He was the one who built the explosive
25 charge that was assembled on the explosive belt that was

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1 fitted on the suicide bomber.

2 MR. TURNER: Would you show the witness 3755,
3 please.

4 Q Can you identify 3755?

5 A Yes, I can identify it.

6 Q What is 3755?

7 A It is the official claim of responsibility by Izz
8 ad-Din al-Qassam brigade -- al-Qassam Martyrs Brigade, the
9 military wing of Hamas, claiming responsibility for the
10 attack carried out in Bus 37 Haifa, including the name of
11 the suicide bomber.

12 MR. TURNER: We offer 3755.

13 THE COURT: I'm confused on the number. Let's
14 have a sidebar.

15 (Continued on the next page for sidebar.)
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SIDEBAR CONFERENCE

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1 (Sidebar conference begins.)

2 THE COURT: 3775. I think so. What's ambiguous
3 is that you asked him about a claim of responsibility, but
4 you showed him the conviction document in Hebrew. He
5 answered with what you wanted to show him, not what he was
6 looking at. So you -- I don't know where you are, but what
7 you were showing him was the conviction document, not the
8 claim of responsibility.

9 MR. OSEN: I think that popped up after the
10 question.

11 THE COURT: Really?

12 MR. TURNER: Yeah, there were two.

13 THE COURT: So he looked at it and then looked
14 away and then another document came in.

15 MR. TURNER: I had the number wrong, it was 3775.

16 THE COURT: Yeah, it's 3775. Okay. So I think
17 what happened is I think he heard the wrong number and
18 switched it to the wrong document when he heard the wrong
19 number. Straighten it out.

20 MR. OSEN: Okay.

21 (End of sidebar conference.)

22 (Continued on the next page.)

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1 MR. TURNER: Okay let's back up. May I proceed?

2 THE COURT: Yes.

3 BY MR. TURNER:

4 Q Let's back up let's put up 3775. Can you identify
5 3775?

6 A Yes, I can.

7 Q And what is 3775?

8 A It is the official claim of responsibility by Izz
9 ad-Din al-Qassam Brigade, the military wing of Hamas
10 concerning the terror attack on Haifa Bus 37, which includes
11 the name of the suicide bomber, Mahmoud Qawasmeh.

12 MR. TURNER: We offer 3775.

13 THE COURT: That's received over objection.

14 (Plaintiff Exhibit 3775 was admitted into
15 evidence.)

16 Q Were you also able to access the Israel Security Agency
17 report reporting on the investigation of this particular
18 attack on Bus 37?

19 A Yes.

20 MR. TURNER: May we display 3811, which is in
21 evidence, at least the portion related to Bus 37.

22 Q Was Qawasmeh identified by the Israel Security Agency
23 as the suicide bomber?

24 A Yes, indeed so.

25 Q And did this assist you in reaching your conclusions?

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1 A Of course it did help me crosscheck the information I
2 had.

3 Q Now, in addition to those two pieces of information,
4 did you also have access to court records, convictions of
5 some of the individuals involved in this terror attack?

6 A Yes.

7 MR. TURNER: Put 3755 up this time, please.

8 Q Can you identify 3755? What is 3755?

9 A This is the verdict against one of the terrorist that
10 was involved in the terror attack on Bus 37, and he was
11 sentenced to 17 life sentences.

12 Q And what was his name?

13 A Can you please move it up or down a bit, so I can see.
14 I do not want to be mistaken about the name. The other
15 side. As I told you, it was Fadi al-Ja'aba.

16 MR. TURNER: We offer 3755.

17 THE COURT: Received over objection.

18 (Plaintiff Exhibit 3755 was admitted into
19 evidence.)

20 MR. TURNER: Show the witness 3756, please.

21 Q Can you identify 3756?

22 A Yes, I can.

23 Q What is 3756?

24 A This is the verdict against Munir Rajbi, member of
25 Hamas cell who participated in preparing the terror attack

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1 on Bus 37.

2 MR. TURNER: We offer 3756.

3 THE COURT: That's the Apostilled document?

4 MR. TURNER: Yes, sir.

5 THE COURT: All right. That's received over

6 objection.

7 (Plaintiff Exhibit 3756 was admitted into
8 evidence.)

9 MR. TURNER: And 3754, please.

10 Q Can you identify 3754?

11 A Yes.

12 Q What is 3754?

13 A This is the verdict against another terrorist whose
14 name is Mu'az Abu Sharakh, who also participated in
15 preparing the terror attack.

16 (Continued on the next page.)

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1 MR. TURNER: We offer 3754

2 THE COURT: All right. Received over objection.

3 (Plaintiffs' Exhibit 3754 received in evidence.)

4 BY MR. TURNER:

5 Q In addition to those sources of information,
6 Mr. Shaked, did you likewise have available to you a will
7 from Qawasmeh that was prepared prior to the attack?

8 A To the best of my recollection, Mr. Mahmoud Qawasmeh
9 wrote a will, but I did not see it.

10 Q Did you have access to any memorialization materials
11 created by Hamas memorializing Qawasmeh's act in bombing bus
12 37 in Haifa?

13 A Yes, indeed.

14 Q Did you have an opportunity to investigate the shooting
15 attack that occurred in Kiryat Arba in March of 2003?

16 A Yes.

17 Q Were you able to determine during the course of your
18 investigation who was involved in that terror attack?

19 A Yes. Two members of Hamas were involved in this terror
20 attack, Hazem al-Qawasmeh and Muhsin al-Qawasmeh.

21 MR. TURNER: May we display the slide.

22 BY MR. TURNER:

23 Q Where is or was Kiryat Arba at the time of this terror
24 attack?

25 A Kiryat Arba is a settlement bordering with Hebron.

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1 Q Was this a significant area in terms of the attack
2 geographically?

3 A Yes. Because the access from the sea of Hebron to
4 Kiryat Arba, despite the security means used, is very easy.

5 Q Did your investigation determine how many shooters were
6 involved in this particular attack?

7 A Yes, I did reach a conclusion.

8 Q And was there one location -- okay. Go ahead and give
9 us your conclusion.

10 A My conclusion was that two Hamas members, whose names I
11 mentioned, carried out the attack in Kiryat Arba.

12 Q And was there one location for the shooting or two?

13 A On that very same evening, at the very same time, at
14 the very same hour, in exactly the same timing, Hamas
15 carried out two attacks. One was in Kiryat Arba east of
16 Hebron and the second one was in a place called Negohot,
17 west of Kiryat Arba. In other words, two attacks that
18 happened simultaneously by four terrorists.

19 Q Now, in the context of this particular attack, you have
20 two other individuals listed on here: Basel al-Qawasmeh and
21 Abdallah abu Seif.

22 What was their roles in this attack?

23 A Basel al-Qaawasmeh was one of the senior commanders of
24 Hamas from the military wing in Hebron. He was a senior
25 commander, and he was the one to bring the explosive vest to

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1 one of the terrorists in this attack to instruct and guide
2 and issue the instructions for the execution of the attack.

3 Abdallah abu Seif, on the other hand, was another
4 senior member of Hamas in Hebron. He was the one leading
5 the two terrorists toward their target in Kiryat Arba.

6 MR. TURNER: Show the witness 3781.

7 THE COURT: Before you do that, can you go back to
8 the slide for a minute. I just want to ask the witness.

9 Why is there no picture of Seif?

10 THE WITNESS: We were unable to obtain a clear
11 picture that wasn't blurred.

12 THE COURT: Thank you.

13 MR. TURNER: 3781. Witness only, please.

14 BY MR. TURNER:

15 Q Can you identify 3781, Mr. Shaked?

16 A Yes, I can.

17 Q And what is 3781?

18 A This is the official claim of responsibility taken by
19 or made by Hamas' Izz al-Din Al-Qassam Martyrs Brigade,
20 which is its military wing for the attack in Kiryat Arba.

21 MR. TURNER: We offer 3781.

22 THE COURT: All right. That's received over
23 objection.

24 (Plaintiffs' Exhibit 3781 received in evidence.)

25 BY MR. TURNER:

SHAKED - DIRECT - TURNER

1188

1 Q Did 3781 help you conclude who was responsible for this
2 terror attack on behalf of Hamas?

3 A Yes. I'd like to note that it did indeed help me.

4 MR. TURNER: Show the witness 3797, please.

5 BY MR. TURNER:

6 Q Can you identify 3797?

7 A Yes, I do.

8 Q And can you generally describe what 3797 is?

9 THE COURT: Generally.

10 This didn't sound general. Let's see.

11 A This is a document issued by the Prime Minister's
12 office that describes the terror attack that was held in
13 Kiryat Arba. It describes the attack, how it was carried
14 out, and who was hurt.

15 THE COURT: Okay.

16 BY MR. TURNER:

17 Q Did that information assist you in crosschecking what
18 you already knew from the claim of responsibility?

19 A Yes, it did.

20 MR. TURNER: Would you show the witness 4777,
21 please.

22 BY MR. TURNER:

23 Q Can you identify 4777?

24 A Yes, I do.

25 Q What is 4777?

SHAKED - DIRECT - TURNER

1189

1 A This is the verdict and sentence regarding the deeds of
2 Muhammad Abu Seif.

3 Q Did this conviction relate to this attack?

4 A Excuse me. Abdallah Abu Seif.

5 Q Does this conviction relate to this attack?

6 A Yes. It relates to one of the terrorists involved
7 whose name I just mentioned, Abdallah Abu Seif.

8 Q Is Abdallah Abu Seif the one that we did not have a
9 photograph for?

10 A Yes, indeed, that's the man.

11 MR. TURNER: Show the witness 3789 as well,
12 please.

13 BY MR. TURNER:

14 Q Do you recognize 3789?

15 A Yes, I can identify this document.

16 Q And what is 3789?

17 A Yes. This is a page from the Web site of Izz al-Din
18 Al-Qassam Martyrs Brigade, the military wing of the Hamas.
19 And it is devoted to one of the terrorists involved in the
20 terror attack in Kiryat Arba. It tells his life story and
21 the story of the terror attack as told by Hamas.

22 Q And in addition to these sources of information, did
23 you likewise have available any memorializations prepared by
24 Hamas glorifying this conduct?

25 A Yes, I did. I had a number of posters that were

SHAKED - DIRECT - TURNER

1190

1 distributed throughout the city of Hebron.

2 Q Did you have an opportunity to investigate the suicide
3 bombing that occurred at a place called Mike's Place in Tel
4 Aviv in April of 2003?

5 A Yes, I did.

6 Q And were you able to identify the suicide bombers
7 involved in this particular attack?

8 A Yes, I was able.

9 MR. TURNER: May we display the slide?

10 BY MR. TURNER:

11 Q Who were the suicide bombers involved in carrying out
12 the attack at Mike's Place that resulted in three deaths and
13 50-plus reported injuries?

14 A The two suicide bombers were British citizens of
15 Pakistani origin. One was named Asif Hanif and the other
16 was named Khan Sharif. And they both arrived in Israel and
17 were sent to carry out the terrorist attack.

18 Q Tell us a little bit about Mike's Place. What was
19 Mike's Place back in 2003 in Tel Aviv and where was it
20 located?

21 A Mike's Place was one of the more popular jazz clubs
22 located in Tel Aviv. It's located near the main promenade
23 of the Tel Aviv beach just meters away or yards away from
24 the American Embassy in Israel. It's located in a very busy
25 place, and at night many young people come to the club to

SHAKED - DIRECT - TURNER

1191

1 hear live jazz music being played.

2 Q Did your investigation give you any background
3 information on how Hanif and Khan, the two terrorists, made
4 it into Israel?

5 A Yes, they did.

6 Q What did you learn during the course of your
7 investigation about these two terrorists?

8 A These were two members of the British mujahideen
9 organization. They had decided to come to the Middle East
10 to help the Islamic organizations fighting in it, especially
11 Al-Qaeda. They arrived in Syria and after they were unable
12 to reach Iraq, they made contact with Islamic operatives in
13 Damascus, and they received a new target in the territories.

14 They were equipped with very sophisticated plastic
15 explosives which they hid between the pages of a Koran book.
16 They arrived in Israel via the Allenby Bridge. They visited
17 in Jerusalem and in Tel Aviv. They arrived in Gaza where
18 they met with members of Hamas. And there they received the
19 orders or the authorization from the headquarters to carry
20 out the terror attack.

21 They returned to Tel Aviv and late at night they
22 entered the Mike's Place jazz club. One of them blew
23 himself up in it. The other escaped and later his body was
24 retrieved from the ocean.

25 Q Were you able to determine during the course of your

SHAKED - DIRECT - TURNER

1192

1 investigation whether both terrorists were equipped with
2 bombs or whether only one of them had a bomb?

3 A One of the terrorists was equipped with the explosive
4 materials that I described earlier that was hidden within
5 the pages of a Koran book and the other had an explosive
6 belt.

7 Q And during the course of your investigation, were you
8 able to determine one way or the other whether the bomb that
9 did not detonate failed to detonate by mistake or did the
10 terrorist change his mind and run away?

11 MR. INGERMAN: Objection, your Honor.

12 THE COURT: Sustained.

13 BY MR. TURNER:

14 Q Were you able to determine -- you can't answer that.

15 Were you able to determine during the course of your
16 investigation why the second bomb did not detonate?

17 A Yes. In my assessment and based on information I
18 collected, the second bomb did not blow up for technical
19 reasons. That was the reason it did not blow up.

20 Q Now, in looking at the photograph, do you recognize
21 this photograph from other sources?

22 A I've seen this photograph in many places, not only on
23 the Web site of Hamas.

24 Q Now, there's a reference to a poster of Ibrahim
25 al-Maqadma. Do you know who Ibrahim al-Maqadma was back in

SHAKED - DIRECT - TURNER

1193

1 2002, 2003?

2 A Yes, I know who Ibrahim al-Maqadma is.

3 Q Who?

4 A Ibrahim al-Maqadma was one of the founders of Hamas
5 together with Sheikh Yassin. He was responsible for Hamas'
6 military -- for the connection between the military wing and
7 the political wing of Hamas. Because of his activities in
8 Hamas, he was eliminated by Israel in 2002. We see him here
9 in the poster that was issued in his memory by Hamas.

10 I would like to add that in the poster, we can see that
11 the terror attack that these two men are about to carry out
12 is going to be held in honor of the memory of.
13 Ibrahim al-Maqadma.

14 Q How can you tell that?

15 A I know this based on a statement issued by Hamas a year
16 after the terror attack carried out by these two men at
17 Mike's Place.

18 Q And was that statement made on a particular
19 anniversary?

20 A Yes.

21 Q And what was the anniversary of?

22 A It was on the anniversary of Maqadma's death.

23 Q Now, is there any significance in trying to determine
24 Hamas' role in this particular attack at Mike's Place to the
25 green banner these two gentlemen are standing in front of?

SHAKED - DIRECT - TURNER

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1 A Of course. It's the green, the green color of the
2 Hamas flag. That is the main symbol of Hamas, the color
3 green. We can see it in the flag. We can see it in the
4 headband they are wearing on their forehead. And we can see
5 it also in the background of the picture of Maqadma.

6 Q And what are these two terrorists holding, in addition
7 to the rifles?

8 A In addition to the rifle each is holding, they are
9 holding a book of the Koran.

10 MR. TURNER: Show the witness 3807, please.

11 BY MR. TURNER:

12 Q Can you identify 3807?

13 A Yes, I do.

14 Q What is 3807?

15 A This is an official claim of responsibility made by
16 Hamas' Izz al-Din Al-Qassam Martyrs Brigade. It's a
17 military statement from Izz al-Din Al-Qassam regarding the
18 terror attack at Mike's Place.

19 MR. TURNER: We offer 3807.

20 THE COURT: In light of the objection, do a better
21 foundation for it.

22 BY MR. TURNER:

23 Q What is the source of 3807?

24 A The source is the official Internet Web site of Izz
25 al-Din Al-Qassam Brigade, which is the military wing of

SHAKED - DIRECT - TURNER

1195

1 Hamas.

2 MR. TURNER: We offer 3807.

3 THE COURT: All right. It's received over
4 objection.

5 (Plaintiffs' Exhibit 3807 received in evidence.)

6 BY MR. TURNER:

7 Q Did 3807 help you reach the conclusion that Hamas was,
8 in fact, responsible for the bombing at Mike's Place?

9 A Indeed, it was.

10 MR. TURNER: Show the witness 3812, please.

11 BY MR. TURNER:

12 Q Do you recognize 3812?

13 A If you can blow it up a bit.

14 Yes, I can identify it.

15 Q What is 3812?

16 A It is the claim or announcement made by Izz al-Din
17 Al-Qassam Brigade concerning the terror attack in Mike's
18 Place, including the names of the two perpetrators of the
19 attack.

20 Q Is this the same document that you were referring to
21 earlier that was issued on the anniversary of Maqadma's
22 death?

23 A If you can put it up a bit.

24 No, it is not the same document.

25 Q Did this one come -- what was the source of 3812?

SHAKED - DIRECT - TURNER

1196

1 A Is this the document that I'm seeing here (indicating)?

2 Q Yes, I'm sorry.

3 A The official Web site of Izz al-Din Al-Qassam. This is
4 the official Web site of Hamas.

5 Q And did 3812 assist you in crosschecking information
6 that you were provided and made available in determining
7 Hamas' role in this particular attack?

8 A Yes, it did help me determine the role of Hamas in this
9 terror attack.

10 MR. TURNER: We offer 3812.

11 MR. INGERMAN: Same objection.

12 THE COURT: Well, let's have a sidebar.

13 In fact, it's probably a good breaking time. So
14 rather than keeping the jury for our sidebar and breaking,
15 let me send them home.

16 Ladies and gentlemen, don't discuss the case
17 amongst yourselves or with anyone else. Don't do any
18 research. Don't look on Google or any other site. Keep it
19 to yourself. Don't even think about it till you get back
20 here tomorrow morning. Stay away from any news reports.

21 Have a good night.

22 (Jurors exit the courtroom.)

23 THE COURT: Okay. Be seated.

24 I'm not as familiar with this document as I am
25 with the other one so I'm going to look at it overnight.

PROCEEDINGS

1197

1 MR. TURNER: May he be excused?

2 THE COURT: Sorry. You may all step down.

3 (Witness exits the courtroom.)

4 THE COURT: So I'll look at it overnight. It's
5 probably going to be admitted over the objections that have
6 been previously made. But it caught me a little off guard
7 and it was time to break in the day anyway.

8 Anything else we need to take up?

9 MR. WERBNER: Your Honor, are we going to be in
10 session on Friday, September 5th? You had mentioned that
11 possibility.

12 THE COURT: I hope to be. I was going to poll the
13 jury on Thursday and see if they had any real problems with
14 it. If not, then my intention is to do that, especially
15 since this witness is taking longer than I anticipated.

16 Does that pose a hardship for anyone?

17 MR. WERBNER: No. I'd like to be in session. But
18 if we are, I was going to try to -- I need to make some
19 travel plans. So if I know Thursday, that's fine. Sooner
20 would be good as well.

21 THE COURT: All right. Why don't I instead of
22 waiting till Thursday, we'll talk to the jurors. I'll have
23 Ms. Clarke talk to the jurors tomorrow morning and see if
24 any of them have a problem on September 5th. If they don't,
25 then we'll sit on that day.

PROCEEDINGS

1198

1 MR. WERNER: Thank you.

2 THE COURT: Have a good night.

3 MR. OSEN: Your Honor, as you may recall, we filed
4 our letter last night.

5 THE COURT: Yes.

6 MR. OSEN: The defendant has not yet responded to
7 it.

8 THE COURT: I thought -- on 7, 8 and 9?

9 MR. OSEN: Yes. They filed a letter saying that
10 they would respond --

11 THE COURT: Oh.

12 MR. OSEN: -- sometime today or whenever, but not
13 last night. And I only asked about it because the folks
14 from IT who have to cut the tapes are then put under a lot
15 of pressure. And we'd like it to be as smooth as possible.

16 THE COURT: What time will we have the objections?

17 MR. OSEN: It's not the objections, your Honor.
18 It's their response.

19 THE COURT: Counter-designation?

20 MR. OSEN: I'm sorry. Let me back up a second.

21 THE COURT: Okay.

22 MR. OSEN: They filed their counters. We objected
23 yesterday and filed a letter itemizing, detailing our
24 objections to the counters. And they have not responded yet
25 to that letter about our objections.

PROCEEDINGS

1199

1 THE COURT: To their counters?

2 MR. OSEN: Correct.

3 THE COURT: I understand.

4 MR. INGERMAN: Your Honor, we had a letter ready
5 to go and then you issued an order this morning. That order
6 impacts some of the issues that the plaintiffs raised in
7 their letter. So we're just reworking the letter to take
8 that into consideration.

9 We can get it on file by 7:00, if that's okay.

10 THE COURT: That's great.

11 MR. INGERMAN: Thank you.

12 THE COURT: Thank you all. See you tomorrow.

13 MR. WERBNER: Good night.

14 (Time noted: 4:19 p.m.)

15 (Proceedings adjourned until Wednesday, August 27,
16 2014, at 9:30 a.m.)

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WITNESS

PAGE

RONNI SHAKED

DIRECT EXAMINATION (CONTINUED) BY

MR. TURNER

1052

1204

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 COURTNEY LINDE, ET AL.,)

4 Plaintiffs,)

7 -against-)

10 ARAB BANK, PLC,)

11 Defendant.)

) 04CV02799 (BMC)

) And all related cases:

) 04CV05449 (Litle)

) 04CV05564 (Almog)

) 04CV00365 (Coulter)

) 05CV00388 (Afrait-Kurtzer)

) 05CV03183 (Bennett)

) 05CV03768 (Roth)

) 06CV01623 (Weiss)

) United States Courthouse
) Brooklyn, New York

) WEDNESDAY, AUGUST 27, 2014

12
13 TRANSCRIPT OF CIVIL CAUSE FOR JURY TRIAL
14 BEFORE THE HONORABLE BRIAN M. COGAN
15 UNITED STATES DISTRICT JUDGE

16 APPEARANCES:

17 FOR PLAINTIFFS LINDE
18 AND COULTER:

OSEN, LLC
BY: GARY M. OSEN, ESQ.

19 TURNER & ASSOCIATES, PLLC
BY: CLYDE T. TURNER, ESQ.

20 FOR PLAINTIFFS LITLE,
21 BENNETT AND ROTH:

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BY: MARK S. WERBNER, ESQ.

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(APPEARANCES CONT.)

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BY: ANTHONY PAUL COLES, ESQ.
BY: BRETT INGERMAN, ESQ.
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Proceedings recorded by mechanical stenography, transcript
produced by computer-assisted transcript.

Proceedings

1206

1 (Outside the presence of the jury.)

2 THE COURT: With regard to the letter I received
3 yesterday, concerning the witness scheduling issue, there's
4 not a lot I can do to help here. I've got a really full
5 calendar tonight, so I can't get rid of that; that includes a
6 sentencing tonight. I think we're just going to have to see
7 what happens. I'm sure the defendant will do what they can to
8 not inconvenience the witness or the plaintiffs, consistent
9 with their obligation to represent the client, so we'll just
10 have to see. There was one other thing. Yes, I need to have
11 specific and exhibits by Friday. Okay. Yes.

12 MR. OSEN: Your Honor, depending on what happens
13 here today, we'll either have it by Friday or even have it
14 today, depending on how things go, so they're more or less
15 ready, subject to the schedule.

16 THE COURT: Okay. Anything else we need to cover?
17 All right. We'll have the jury, please. You should sit.
18 Might take a while. We are off to an early start. That's
19 good. We're checking on the jurors' schedules for a week from
20 Friday, so we should know that this morning.

21 MR. OSEN: Your Honor, one other question.

22 THE COURT: Yes.

23 MR. OSEN: The deposition designations are still
24 pending. Presumably we'll play them tomorrow.

25 (In the presence of the jury.)

Shaked - Direct - Turner

1207

1 THE COURT: We're working on that.

2 Be seated, please. Good morning, ladies and
3 gentlemen.

4 THE JURORS COLLECTIVELY: Good morning.

5 THE COURT: We'll continue with direct examination.
6 I think where we left off was the proffer of Exhibit 3812,
7 which was received over objection.

8 MR. TURNER: Thank you, your Honor.

9 RONNI SHAKED,
10 recalled as a witness, by and on behalf of the plaintiffs,
11 having been first duly sworn, was examined, and testified
12 further as follows:

13 DIRECT EXAMINATION (CONTINUED)

14 BY MR. TURNER:

15 Q And just for purposes of putting it into context, 3812
16 was one of the claims of responsibility by Hamas; is that
17 correct, sir?

18 A I need to know exactly what terror attack this is.

19 Q Mike's Place?

20 A Yes, indeed so.

21 Q Now, in addition to the claims of responsibility, and I
22 believe yesterday it was established that there were two
23 separate ones; one a short time after the attack, and then
24 another one, I think, over a year later.

25 Were there other claims of responsibilities made by

Shaked - Direct - Turner

1208

1 any other terror organizations for the Mike's Place attack?

2 A Yes, there were other organizations, sir.

3 Q Who else claimed responsibility for that attack, other
4 than Hamas?

5 A Because this whole thing was very vague, there were
6 various organizations that try to piggyback. This particular
7 one, it was the Hamas the, PIJ, and I myself admit that I
8 thought there were even traces of Al-Qaeda there. There were
9 others who argued it was the Hezbollah. It was very vague.
10 It wasn't clear. The various organizations tried to claim
11 responsibility for this one.

12 Q Over a period of time, did responsibility for the Mike's
13 Place attack clarify itself?

14 A Yes.

15 MR. TURNER: Your Honor, may we go back and display
16 the slide, your Honor?

17 THE COURT: Yes.

18 Q Now, yesterday -- we won't go back through all this, but
19 yesterday we talked about the banner, Hamas banner; we talked
20 about the Hamas headbands; we talked about the photograph, and
21 the one thing we didn't talk about, which is already in
22 evidence, is did Hamas at some point in time release a video
23 of these two terrorist prior to the attack?

24 A Indeed, the Hamas released a videotape of these two
25 terrorists who perpetrated the terror attack.

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1209

1 Q And, the video, was it made prior to the attack by Hamas?

2 A Yes.

3 Q And can you give us a time perspective; when was the
4 video released of these two terrorists after the attack?

5 A This videotape was released by Hamas a year after the
6 terror attack.

7 MR. TURNER: May we display 3811, which is already
8 in evidence. This is the ISA report. This will be pertaining
9 to a section pertaining to Mike's Place.

10 Q Did the ISA, the Israeli Security Agency, report that was
11 ultimately issued about the Mike's Place attack, identify the
12 same two suicide bombers as you were able to identify them?

13 A Yes, they were identified by the ISA report.

14 Q In addition to the ISA report, were you given access to
15 other government agency reports and announcements that further
16 clarified that Hamas was, in fact, responsible for this
17 attack?

18 A Yes, there were.

19 Q As part of the other sources of information, did you at
20 any point in time have access to Hamas-created memorials of
21 this particular attack, glorifying the terrorists?

22 A Yes, I did have access to the posters or what we've seen
23 here, which was the beginning of a videotape.

24 Q Did that further help you cross-check your sources of
25 information for accuracy?

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1210

1 A Yes, it did.

2 Q Did you have an opportunity to investigate the Bus 6
3 bombing in Jerusalem, at a place called French Hill that
4 occurred May 18th, 2003?

5 A Yes, I examined this terror attack, too.

6 Q Now, the jury has already had an opportunity to see the
7 videotaped deposition of Mr. Averbach, at the first of the
8 trial; and I realize you were not here, but were you able to,
9 as part of your investigation, identify who the suicide bomber
10 was in this particular attack?

11 A Yes.

12 MR. TURNER: May we display the slide for Bus 6
13 bombing?

14 THE COURT: You may.

15 Q Who was the suicide bomber that blew up Bus 6?

16 A At the bottom part of the slide, you can see the picture
17 of Basem Takruri, a very young man, perhaps, 19 or 20, or even
18 younger than that. He blew himself up on Bus 6 on French
19 Hill.

20 Q Were you able to determine whether he was acting alone or
21 acting for Hamas?

22 A He acted on behalf of Hamas. If I may tell you, this
23 young man wore the clothes of a religious Jewish man. He wore
24 a yamika, a skull cap, and a black coat to camouflage his
25 identity, and he did this because Hamas demanded him and

Shaked - Direct - Turner

1211

1 requested him to do this. So he did this for Hamas, and he
2 saw himself as a member of Hamas.

3 MR. TURNER: Show the witness 3830, please.

4 Q Do you recognize 3838?

5 A Yes, I do.

6 Q What is 3838?

7 A This is an official claim of responsibility for the
8 bombing of Bus 6 in Jerusalem that was published by Hamas.

9 MR. TURNER: We offer 3838.

10 THE COURT: Need a little more foundation, please.

11 Q What is the source of 3838?

12 A The source for this document is the official Internet
13 website of the Qassam Brigades, the military wing of Hamas.

14 THE COURT: All right. The document is admitted
15 over objection.

16 (Plaintiffs' Exhibit 3838 was received in
17 evidence.)

18 Q In addition to the official claim of responsibility by
19 Hamas for the bombing of Bus 6, did you have access to the
20 Israeli Security Agency report previously marked as 3811,
21 which confirmed your findings with regard to claim of
22 responsibility?

23 A Yes, I did have the opportunity to examine official
24 documents.

25 MR. TURNER: May we briefly display the portion of

Shaked - Direct - Turner

1212

1 the ISA report pertaining to this attack?

2 THE COURT: You may.

3 Q Did the Israeli Security Agency report help you confirm
4 both the identity of the suicide bomber and Hamas' role in
5 this attack?

6 A Yes, it was with the help of this report that I could
7 cross-check the information that I had.

8 Q Did you also have access to other government agency
9 information, such as Prime Minister releases of the ISA
10 report, relating to this particular attack?

11 A Yes, I did.

12 MR. TURNER: Would you show the witness 3852,
13 please.

14 Q Can you identify 3852, sir?

15 A Yes.

16 Q What is 3852?

17 A Yes, this is the sentencing that was given against Omar
18 Sharif, member of Hamas, who fitted the belt and dispatched
19 the suicide bomber who perpetrated the attack on busses.

20 MR. TURNER: Your Honor, we offer 3852 as Apostilled
21 or certified.

22 THE COURT: It is received over objection.

23 (Plaintiffs' Exhibit 3852 was received in
24 evidence.)

25 Q Did you -- in addition to these other sources of

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1213

1 information we've talked about, did you at some point in time
2 come into possession of a will, a video will, of one of the
3 perpetrators of this attack?

4 A Yes, I did have access to the long will of the suicide
5 bomber.

6 Q And what was the source of the video will of the suicide
7 bomber?

8 A The will was published by the Qassam Brigades, the
9 military wing of a Hamas, after the execution of the attack by
10 Basem Takruri.

11 Q Did this will, and particularly the words of the suicide
12 bomber himself, help assist you in identifying Hamas as the
13 responsible organization for this attack?

14 A Indeed, these words helped me. In particular, the
15 personal words uttered by the terrorists who said I, the
16 living, Shaheed, operate on behalf of Hamas organization in
17 the execution of this attack.

18 MR. TURNER: Your Honor, we would offer 3863 into
19 evidence and ask that we show the video.

20 THE COURT: All right. That is received over
21 objection.

22 (Plaintiffs' Exhibit 3863 was received in
23 evidence.)

24 MR. TURNER: May we have the lights?

25 (Video played for the jury.)

Shaked - Direct - Turner

1214

1 THE COURT: Can you pause it a minute.

2 Do you need more?

3 MR. TURNER: Pardon?

4 THE COURT: Do you need more?

5 MR. TURNER: No, sir.

6 THE COURT: Please continue.

7 MR. TURNER: There's not much more of it. That's
8 fine. Could we have the lights?

9 Q And, finally, as sources of information for the Bus 6
10 suicide bombing on French Hill, did you have access to
11 memorializations, glorifying this particular terrorist that
12 were published by Hamas after the attack?

13 A Yes, I did receive such materials.

14 MR. TURNER: Your Honor, we would also offer into
15 evidence 3853, which is the conviction record of Basel
16 Qawasmeh, and it's Exhibit 3853. It's Apostilled.

17 MR. INGERMAN: Your Honor, this is one of the ones I
18 think Mr. Osen and I spoke about; they were not going to offer
19 it because it was not in the expert's report.

20 MR. TURNER: We're not offering it through the
21 witness, I'm just offering the Apostille conviction of Basel
22 Qawasmeh into evidence as a certified copy of the conviction
23 record.

24 THE COURT: Okay. Let's have a sidebar, please.

25 (Sidebar held outside the presence of the jury.)

Sidebar

1215

1 (Sidebar.)

2 THE COURT: Is it not on a particular exhibit list?

3 MR. INGERMAN: No, it's on the exhibit list, but it
4 wasn't in the expert's report.

5 THE COURT: What if they finish this expert, and
6 then offered it not through the expert? It's an Apostille
7 document.

8 MR. INGERMAN: I think it's got to come in through a
9 witness.

10 THE COURT: No, it's self-authenticating. It
11 doesn't.

12 MR. INGERMAN: We would object to it.

13 THE COURT: Overrule the objection.

14 (Sidebar concluded.)

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Shaked - Direct - Turner

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1 (In presence of the jury.)

2 THE COURT: All right. That document is received.
3 Continue.

4 (Plaintiffs' Exhibit 3853 was received in
5 evidence.)

6 Q Mr. Shaked, have you also had the opportunity to
7 investigate the Bus 14A bombing, the suicide bombing that
8 occurred in Jerusalem on Jaffa Road, on June 11, 2003?

9 A Yes.

10 Q Were you able to identify the suicide bomber in this
11 attack?

12 A Yes, I did identify him.

13 MR. TURNER: May we display the slide?

14 THE COURT: Yes.

15 Q Who was the suicide bomber that carried out the attack on
16 Bus 14A, resulting in 17 deaths and 100-plus injuries?

17 A At the bottom of the slide, you see the picture of Abd el
18 Muati Shabana. He was a Hamas operative. He committed the
19 bombing at the bus and committed suicide in it. You can also
20 identify him by the green bandana he's wearing on his head.

21 Q Were you able to determine whether Shabana acted alone or
22 whether Shabana was acting for Hamas in carrying out this
23 suicide attack?

24 A Shabana was member of Hamas, a member of Hamas, and he
25 committed this act in the name of Hamas, on behalf of Hamas,

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1 in the name of Hamas.

2 MR. TURNER: Show the witness 3866, please.

3 Q Can you identify 3866?

4 A Yes, I can identify this document.

5 Q What is 3866?

6 A This is a document by the al-Qassam Brigades from the
7 website of Hamas, in which they claim responsibility for the
8 line 14 bombing and tell the story of the suicide bomber.

9 MR. TURNER: We would offer 3866.

10 THE COURT: All right. That's received over
11 objection.

12 (Plaintiffs' Exhibit 3866 was received in
13 evidence.)

14 MR. TURNER: May we display 3866 very briefly?

15 THE COURT: You may.

16 Q Mr. Shaked, when the exhibit comes onto the scene, can
17 you identify for us whether or not the suicide bomber
18 photographed in the Hamas official claim of responsibility is
19 the same individual you identified as the suicide bomber of
20 Bus 14A in Jerusalem?

21 A Yes, indeed, this is the same picture of Abd el Muati
22 Shabana.

23 Q Did you, likewise, have access to the Israeli Security
24 Agency report from the investigation of this particular
25 attack, which has been previously marked as 3811?

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1 A Yes, I had access to the accident report.

2 MR. TURNER: May we briefly display the section of
3 the ISA report relating to the Bus 14A bombing?

4 THE COURT: Yes.

5 Q Did the ISA report identify the same suicide bomber?

6 A Yes, indeed, it identified the same suicide bomber,
7 Abd el-Muati Shabana.

8 MR. TURNER: Go back to the original slide, if you
9 will, slide of the attack.

10 Q The center photograph on the slide, once it pops up, will
11 be of Basel al-Qawasmeh. We previously marked as and
12 introduced 3853, which was the conviction record of Basel
13 al-Qawasmeh. Is that the same Basel al-Qawasmeh that
14 participated in this attack as well?

15 A Yes, the Basel al-Qawasmeh that we see -- whose picture
16 we see in the middle of the slide, with the white head (sic)
17 on his head, is the same Basel al-Qawasmeh who committed the
18 attack and commanded it.

19 MR. TURNER: Show the witness 3881, please.

20 Q Can you identify 3881?

21 MR. TURNER: That's not 3881. Exhibit 3881.

22 Q Can you identify 3881?

23 A Yes, I can.

24 Q What is 3881?

25 A Yes, this is the sentencing of Omar Mohammed Sharif, the

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1 man who fitted the explosive belt on the body of the suicide
2 bomber and dispatched him to bomb Bus Number 14.

3 MR. TURNER: We offer 3881 as Apostilled version or
4 certified version of the conviction records for Omar Sharif.

5 THE COURT: That's received over objection.

6 (Plaintiffs' Exhibit 3881 was received in
7 evidence.)

8 Q In addition to these other sources of information, did
9 you have an opportunity to locate a will for the suicide
10 bomber in your research?

11 A Yes.

12 Q And did you, likewise, have access to any memorialization
13 prepared by Hamas glorifying the suicide bomber for this
14 attack?

15 A Yes, Hamas did several memorializations for the glory of
16 this attack.

17 Q Did you also have an opportunity to investigate another
18 shooting attack on Route 60 that occurred on June 20, 2003?

19 A Yes, I did investigate that.

20 Q Were you able to determine whether or not Hamas was
21 responsible for this second attack on Route 60?

22 A Yes, I determined that it was a terrorist from Hamas who
23 perpetrated the shooting on Route 60.

24 MR. TURNER: May we display the side related to this
25 attack?

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1 THE COURT: Yes.

2 Q Were you able to identify some of the key individuals
3 involved in this attack through your investigation?

4 A Yes, I did.

5 Q Now, there's a group of five individuals across the
6 bottom. Can you very briefly tell us about this particular
7 attack and the role of these five individuals in the attack?

8 A This is a group, a squad, of shooters. They had divided
9 roles between them. In the center of the picture we see two
10 shooters, Back med al Najab (phonetic/Hebrew) and
11 Faha Sua1 (phonetic/Hebrew). The driver was Ahmed Mohammed.
12 He's on the right-hand side on the photograph. And Yasser
13 Hamed, on the right-hand side, was a lookout and recognizance
14 man. The commander of this attack was Hide Oma
15 (phonetic/Hebrew), on the left-hand side of the picture.

16 Q And at the very top, Ibrahim Hamed, we've seen him in a
17 number of the attacks in the last day or so. What role did
18 Ibrahim Hamed play in this particular Hamas attack?

19 A Ibrahim Hamed was the commander of Hamas, of -- rather
20 the military wing of Hamas in Ramallah, and he had both to
21 authorize this action and also to give the instruction to
22 execute it.

23 MR. TURNER: Show the witness 3744, please.

24 Q Can you identify 3744?

25 A Yes, I can.

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1 MR. TURNER: I believe this may already be in
2 evidence, your Honor.

3 THE COURT: It is, but you were going to unredact
4 the top two lines.

5 MR. TURNER: Say that again. I apologize.

6 THE COURT: You have part of it blacked out above
7 the picture, and I thought we had agreed you were going to
8 submit it, as the defense requested, without those lines in
9 it.

10 MR. TURNER: That's no problem. We have no
11 objection to doing that. We're not going to display it. I'm
12 just showing this as part of the source of the information he
13 relied on.

14 THE COURT: That's fine.

15 Q What is 3744, Mr. Shaked, and how did that help you
16 identify Hamas as responsible for this particular shooting
17 attack?

18 A This was taken from the official website of Hamas, from
19 their public diplomacy department. It tells the story of the
20 squad, as Hamas tells it, according to the Hamas narrative,
21 and this was published after the members of the squad were
22 arrested. And this story, this narrative, as it appeared on
23 the website did help me in checking and making -- very fine
24 (sic) who exited the shooting on Route 60.

25 MR. TURNER: Your Honor, we would offer into

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1 evidence the following conviction records for four of these
2 individuals, relating to the Route 60 attack on June 20, 2003,
3 Exhibit 4007 of the Hijaz, H-i-j-a-z; 4008, the conviction
4 records of Omar, Route 60 attack; 4009, the conviction records
5 of Hamed, and 4010 Khaled. The conviction records, all
6 Apolstilled, were certified.

7 THE COURT: They are received over objection.

8 (Plaintiffs' Exhibit 4007, 4008, 4009, 4010 were
9 received in evidence.)

10 Q Did you, likewise, have an opportunity to investigate the
11 Bus 2 suicide bombing that occurred in Jerusalem on
12 August 19, 2003?

13 A Yes, I did.

14 MR. TURNER: May we display the side?

15 THE COURT: Yes.

16 Q Were you able to determine the name or identity of the
17 suicide bomber of Bus 2 that resulted in 23 deaths and a
18 hundred thirty-plus injuries?

19 A Yes.

20 Q And before we talk about each of these participants and
21 their role in this attack, can you describe for us the
22 significance of bomb -- of Bus 2 and the route of Bus 2 in
23 Jerusalem at the time of this particular attack?

24 A Bus Line Number 2 is mostly intended to serve the
25 religious population in Jerusalem. The aim of this particular

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1 bus line is to transport people from the Wailing Wall. This
2 is the holy place for the Jewish people that is located right
3 next to the temple, as it is seen, according to the tradition.
4 And, from there, to transport these people to their homes, in
5 a relatively not so well-to-do neighborhood of religious
6 people in Jerusalem. It is a very large bus, carrying people,
7 men, woman and children, who go back to their homes from the
8 evening prayer at the Wailing Wall.

9 Q What did your investigation reveal about Raed Misk, the
10 suicide bomber?

11 A Raed Misk is a very, very special type of suicide bomber.
12 He was extremely educated. He was at the very last stages of
13 writing his Ph.D. dissertation at the University of Nablus.
14 After finishing graduating his academic studies, he did his
15 BA/MA at the University of Hebron. He was a married man. He
16 had young children. However, he was extremely religious. You
17 might even call him fundamentalist. And he was prepared to
18 carry out the attack in a way that is very hard to describe.
19 He did it with great joy, almost elated. He was so happy to
20 carry out the murder of people.

21 Q Now, as part of your investigation, did you have access
22 to video will that was prepared as part of Hamas and
23 distributed by Hamas of Raed Misk?

24 MR. INGERMAN: Objection, your Honor.

25 MR. TURNER: It's in evidence, your Honor, as 3912.

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1 THE COURT: Well, the objection, I assume, is to the
2 question. I'm not seeing what's wrong with the question. Did
3 he have access to it?

4 MR. INGERMAN: Its leading.

5 THE COURT: It's preliminary. Overruled.

6 THE WITNESS: Yes, I did have access to this will.

7 MR. TURNER: Your Honor, at this point, we'd like to
8 show a clip of 3912. Its different than the clip previously
9 seen, and this goes directly to the part that Mr. Shaked was
10 referencing.

11 THE COURT: All right. You may proceed.

12 MR. TURNER: May we have the lights?

13 THE COURT: Yes.

14 MR. TURNER: This is clip two of Exhibit 39.

15 (Video played for the jury.)

16 MR. TURNER: Can you stop the video for a moment and
17 let me ask a question.

18 Q Does the headband have any significance, Mr. Shaked, for
19 purposes of relating this gentleman, this terrorist, to Hamas?

20 A Indeed so. In the Palestinian society, there are signs
21 and there are symbols for every organization. This is not a
22 monolithic society, so Hamas or the military wing of Hamas
23 would wear on their heads green headband. If it was the
24 Fatah, that would be a yellow headband. If it is the PIJ,
25 Palestinian Islamist Jihad, they would be wearing a black

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1 bandana. In the Popular Front for the Liberation of
2 Palestine, which is the more Marxist organization, would wear
3 a red headband. In other words, the headband is the symbol
4 that identifies and links the individual to the organization
5 he belongs to.

6 MR. TURNER: Okay. Mr. Miller.

7 (Video played for the jury.)

8 MR. TURNER: That's sufficient. Could we have the
9 lights.

10 Q Did that video assist you in connecting the relationship
11 between the terrorists and Hamas?

12 A Yes.

13 Q Did your investigation reveal how the terrorist was
14 disguised as he climbed aboard Bus 2 in Jerusalem?

15 A Yes.

16 Q How was he disguised?

17 A Yes. In order to match the appearance of other people
18 who would board this bus, he made himself look like a
19 religious man. He had black skull cap like the other
20 residents of the neighborhood who mounted that bus. They
21 would all have such on their heads. He was wearing a black
22 coat. And because he was a heavy man, he could conceal
23 underneath his black coat the explosive belt. When he boarded
24 the bus, everyone thought that that was yet another resident
25 of the neighborhood, another passenger. It was late at night,

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1 so it was easy for him to disguise himself.

2 MR. TURNER: Show the witness 3952, please.

3 Q Do you recognize 3952?

4 A I do.

5 Q What is 3952.

6 A This is an official claim of responsibility by Hamas
7 organization, or the military wing of Hamas organization, for
8 the perpetration of the attack on Bus Number 2 in Jerusalem by
9 the suicide bomber Rael Misk.

10 Q What is the source of 3952?

11 A The source is the official website of Hamas, the military
12 wing of Hamas.

13 MR. TURNER: We offer 3952 into evidence.

14 THE COURT: I thought this already came in through
15 Coleman. Am I wrong?

16 MR. TURNER: Did I do this earlier?

17 THE COURT: Not you. I thought it came in through
18 Coleman.

19 MR. TURNER: My note doesn't show that. If it's
20 already in evidence, that's fine.

21 THE COURT: If it's not, I'll admit it over
22 objection, but I think it's already in.

23 (Plaintiffs' Exhibit 3952 was received in
24 evidence.)

25 Q Now, in addition to the claim of responsibility, the

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1 official claim of responsibility by Hamas, did you also have
2 access to Exhibit 1248, which is in evidence, which is a
3 United States Government designation of terrorism that
4 specifically references the Bus 2 bombing in Jerusalem.

5 A Yes, indeed, this designation was published in the
6 Israeli media, in a very prominent way.

7 Q How did this particular piece of evidence assist you in
8 not only investigating this bombing but identifying Hamas as
9 one of the -- as the terror group responsible for this attack?

10 A This piece of evidence is but one piece of a whole
11 picture of many details that I collected. All together they
12 form the picture which led me to the conclusion that, indeed,
13 Hamas was behind this terror attack.

14 Q Did you also have access to conviction records of four of
15 the individuals on the slide we were previously looking at?

16 A Yes.

17 MR. TURNER: Your Honor, we would offer into
18 evidence the Apostille or certified versions of 3947, which is
19 Nisim Zatari; 3944, the conviction of Majdi Zatari; 3946, the
20 conviction records of Abdallah Sharif Barghouti; and 3945,
21 which are the conviction records of Jalil Ynghmur,
22 Y-n-g-h-m-u-r.

23 THE COURT: Those are received over objection.

24 (Plaintiffs' Exhibit 3947, 3944, 3946, 3945 were
25 received in evidence.)

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1 Q Did those conviction records further inform you about
2 Hamas' role in this attack?

3 A Yes, this piece of information helped me cross-check the
4 information I had.

5 Q Did you also have the opportunity to investigate the
6 suicide bombing at a place called Cafe Hillel, in Jerusalem,
7 that occurred September 9, 2003?

8 A Yes, I did investigate this attack.

9 MR. TURNER: May we display the slide?

10 THE COURT: Yes.

11 Q Were you able to determine the identity of the suicide
12 bomber who carried out the attack on Cafe Hillel, in 2003?

13 A Yes.

14 Q Were you able to determine whether he acted alone or
15 whether he was acting for and on behalf of Hamas in carrying
16 out this terrorist attack?

17 A Ramed abu Saleem (phonetic/Hebrew) was the terrorist of
18 Hamas, a member of Hamas who operated on behalf of Hamas, in
19 the framework of the cell of Hamas, and on behalf of Hamas
20 perpetrated this attack.

21 Q By way of background, can you tell us what was, back in
22 2003, Cafe Hillel in Jerusalem, and where was it generally
23 located?

24 A Cafe Hillel is located in a southern neighborhood in
25 Jerusalem, in the German colony. It is some sort of a yuppie

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1 neighborhood, where many traditional and young academics live.
2 This neighborhood has many cafes, and in the evenings, many
3 young people and many families attend those cafes, like in any
4 other place. This specific cafe became very popular even
5 before the attack. It was very popular among academics and
6 very young people.

7 Q How far was Cafe Hillel from your office in 2003?

8 A Two or two-and-a half kilometers away.

9 Q Did you go to the scene of this attack on the night of
10 the attack?

11 A Yes, I was in my home, and I rushed over there while
12 still in my slippers.

13 Q Can you give us an idea of approximately how long it took
14 you to get to the scene after the attack occurred?

15 A Not more than 15 to 20 minutes, I believe.

16 Q Were you able to determine who prepared the bomb for this
17 attack?

18 A Yes.

19 Q Who prepared the bomb?

20 A This man is called Baheesh Balel (phonetic), Hamas
21 operative, and he was the man who built the bomb.

22 Q At some point in time, did you actually have the
23 opportunity to sit down and interview the bomb-maker?

24 A Yes, I did have this opportunity, and I interviewed him.

25 Q And during the course of that interview, did you have the

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1 opportunity to talk with him about this particular attack in
2 Cafe Hillel and how he made the bomb?

3 A Yes, we did talk about the terror attack in Cafe Hillel
4 and the way he built the bomb.

5 Q Did you videotape the interview?

6 A Yes, I did.

7 MR. TURNER: Show the witness 3993, if you would.

8 Q Can you identify 3993, please?

9 A Yes, I can identify it.

10 Q What is 3993?

11 A Yes, this is a document of the Qassam Brigades, the
12 military wing of Hamas, taking responsibility for the Cafe
13 Hillel bombing. And in addition to another attack that
14 happened at the same time, but for our matter, Cafe Hillel is
15 what is important.

16 Q What is the source of 3993?

17 A The official website of al-Qassam Brigades, the military
18 wing of Hamas.

19 MR. TURNER: Offer 3993.

20 THE COURT: That's received over objection.

21 (Plaintiffs' Exhibit 3993 was received in evidence.)

22 Q Now, as part of following-up and cross-checking your
23 investigation, did you have access to the ISA report,
24 reporting on the investigation findings of the Israeli
25 Security Agency regarding the Cafe Hillel terrorist attack?

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1 A Yes, I did check ISA reports regarding the Cafe Hillel.

2 MR. TURNER: May we display 3811, which is already
3 in evidence?

4 THE COURT: Yes.

5 Q Did the ISA report assist you in identifying the suicide
6 bomber and some of the participants from Hamas in this attack?

7 A Yes, indeed, it happened.

8 Q Did you, likewise, have access to other government
9 records, such as the Prime Minister's records, relating to
10 this particular Cafe Hillel attack?

11 A Yes, I did.

12 Q Did those, likewise, confirm your conclusions?

13 A Every piece of such information is part of the general
14 picture, which later generates my conclusions.

15 Q Did you also have access to conviction records for some
16 of the participants in this attack?

17 A Yes.

18 MR. TURNER: We offer into evidence 3742 and 3987,
19 which are conviction records for Salah Musa, both Apostilled.

20 (Plaintiffs' Exhibits 3742 and 3987 were received in
21 evidence.)

22 THE COURT: They are received over objection.

23 Q Did you also have access to a will prepared by the
24 suicide bomber that was shown through Al Jazerra?

25 A Yes, I did.

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1 Q Did you have access to any memorializations prepared by
2 Hamas, glorifying the suicide bomber and attack on Cafe
3 Hillel?

4 A Yes, there were many.

5 Q Did you also have the opportunity to investigate a
6 shooting attack at a place called Tal Romeda, in October of
7 2003, near Hebron?

8 A Yes, I had this opportunity.

9 Q Were you able to identify the shooter in this particular
10 attack?

11 A Yes, I did.

12 MR. TURNER: May we display the slide for the Tal
13 Romeda?

14 THE COURT: You may.

15 Q Who was the shooter?

16 A The shooter is a resident of Hebron, a member of Hamas,
17 Rifiq Aqanibi.

18 Q During the course of your investigation, were you able to
19 determine whether Aqanibi acted by himself or whether he was
20 acting for Hamas in carrying out this attack?

21 A According to my investigation, Rifiq Aqanibi acted on
22 behalf of Hamas, as member of Hamas and for Hamas.

23 Q Tell us a little bit about the background of Tal Romeda,
24 where that is, and what is Tal Romeda?

25 A Tal Romeda is a Jewish settlement in the city of Hebron,

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1 not far from an area that is populated by Palestinians. This
2 is an area very accessible. It's easy to get to it. Normally
3 it is secured by the military, and there are several dozens of
4 families that live in it.

5 Q What did your investigation reveal about Aqanibi?

6 A My investigation Aqanibi found that he perpetrated the
7 attack as a member of Hamas, and I'm basing this on the data
8 that I collected, Hamas proclamations, other announcements and
9 the no-how that I have in identifying such people.

10 MR. TURNER: Can you show the witness 4030, please?

11 Q Mr. Shaked, can you identify 4030?

12 A Yes, I can.

13 Q What is 4030?

14 A Yes, this is an official announcement by al-Qassam
15 Brigades, claiming responsibility for the Tal Rameda attack.
16 In addition, this report includes details about the suicide
17 bomber, including his will and personal details about him.

18 Q What is the source of 4030?

19 A This is from the official site, website, of al-Qassam
20 Brigades, the military wing of Hamas.

21 MR. TURNER: We offer 4030.

22 THE COURT: I think I ruled it should be redacted.

23 MR. TURNER: I think there's portions of it
24 redacted. We're not going to show the document. We're just
25 offering it now, subject to your redactions.

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1 THE COURT: But you will redact it as previously
2 discussed?

3 MR. TURNER: Yes.

4 THE COURT: It's admitted over objection.

5 (Plaintiffs' Exhibit 4030 was received in
6 evidence.)

7 Q Were you at the scene of this particular attack?

8 A No, I wasn't in this scene.

9 Q And have you seen video of this scene?

10 A Yes, I did.

11 MR. TURNER: Can you show the witness 4017, please,
12 just the very first part of the news clip?

13 Q Do you recognize this video as a video that you've seen
14 previously?

15 A Yes.

16 Q And can you very generally describe for us what this
17 video shows?

18 MR. INGERMAN: Your Honor, may we approach?

19 THE COURT: Yes.

20 (Sidebar held outside the presence of the jury.)
21
22
23
24
25

Sidebar

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1 (Sidebar.)

2 MR. INGERMAN: Your Honor, my notes from your
3 overruling our objection to this video indicate that you had
4 admitted it, because there was a proffer from the plaintiffs
5 that Mr. Shaked was there and, therefore, can authenticate the
6 video.

7 THE COURT: That's my recollection.

8 MR. TURNER: That's coming. He said he wasn't there
9 at the night of the attack, he was there subsequently.

10 THE COURT: Let's let it get developed.

11 (Sidebar concluded.)

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1 (In the presence of the jury.)

2 MR. TURNER: May I proceed?

3 THE COURT: You may.

4 Q Do you recognize the video?

5 A Yes, I can only see the beginning.

6 MR. TURNER: Can we show him just a little clip of
7 it, him only, with no voice, no noise?

8 THE WITNESS: Yes, I recognize it.

9 Q I couldn't hear you. I'm sorry.

10 A Yes, I recognize it.

11 Q Very generally describe for us what this video relates
12 to. Don't get into details. Just very generally what are you
13 seeing on this videotape?

14 A This shows the impact of shooting on a car, and at the
15 end of the video, we also see a terrorist with a green bandana
16 of Hamas on his head and an AKA-40A (sic) rifle.

17 Q Have you ever been to the scene of this attack?

18 A Many times.

19 Q When? When was the -- let me ask the question this way.
20 Were you at the scene of this attack on the day of the attack?

21 A No, I wasn't.

22 Q When were you at the scene of the attack after the
23 attack?

24 A About a week later and then several more times.

25 Q Now, from what you see on this video, can you personally

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1 identify the scene of this attack?

2 A Yes, I can identify the street or the alley, which is
3 adjacent to Tal Romeda.

4 Q Can you identify Yashef (phonetic) news for us?

5 A Yes, I know this news agency.

6 Q What is that news agency?

7 A Yes, this is a news agency that belongs to the settlers
8 in Samaria. It covers security events in the West Bank.

9 Q Given your investigation of this particular attack,
10 including the fact that you've been to the scene and that you
11 know this particular alleyway, can you identify with accuracy
12 that the person on the videotape is the suicide bomber on --
13 suicide shooter you had previously identified on your slide?

14 A I was not at the scene, at the time, but I can evaluate
15 through the video that this is the same man who committed the
16 attack.

17 MR. TURNER: May we show this brief clip?

18 THE COURT: No.

19 Q Have you, likewise, seen memorializations by -- published
20 by Hamas, glorifying this suicide shooting?

21 A Yes, I did.

22 Q And did that help inform your ultimate conclusions about
23 Hamas' role in this particular attack?

24 A Yes, it assisted me in reaching this conclusion.

25 Q Have you likewise had the opportunity to investigate the

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1 Bus 19 suicide bombing that occurred in Jerusalem, in January
2 of 2004.

3 A Yes, I did.

4 MR. TURNER: May we display the slide?

5 THE WITNESS: It was in January 2004.

6 MR. TURNER: May we display the slide?

7 THE COURT: Yes.

8 Q Were you able to identify the suicide bomber in the Bus
9 19 attack?

10 A Yes, I did identify him.

11 Q And were you able to determine whether or not the suicide
12 bomber acted alone, or whether the suicide bomber was acting
13 by or on behalf of Hamas?

14 A This terrorist did not act alone, and, in this case, he
15 was not only acting on behalf of Hamas, but also on behalf of
16 the al-Qassam Brigades that belong to Fatah.

17 Q On your slide, you've got a division, on the left-hand
18 side with the green, Hamas' role, and on the right-hand side,
19 al-Aqsa Martyrs Brigade (AAMB) role.

20 Can you explain to us when you found about Hamas'
21 role in this particular attack.

22 A With your permission, I would like to explain something.
23 I will begin with the suicide bomber. He volunteered to
24 Hamas, asked to be part of Hamas. He prepared for that
25 bombing within the Hamas organization, including preparing a

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1 video will, which he had read, including fitting him with an
2 explosive vest, and then he was transferred to the Israel
3 territory, but he was stopped at the roadblock. The two
4 people in the left-hand side of the slide are members of
5 Hamas, Nufal Adawin and Muhammad Nashash. Nashash was the one
6 who prepared the explosive belt, and Adawin prepared the
7 suicide bomber toward this Hamas attack, which, as I
8 explained, was not -- the end was not carried out. He was
9 stopped at the very last moment, when he was already with the
10 explosive belt on his body.

11 Q So did the bombing not occur?

12 A This terror attack, as it was planned by Hamas, was not
13 carried out.

14 Q So there was no bombing that occurred?

15 A There was a bombing, but it was carried out by another
16 organization.

17 Q Is that the al-Aqsa Martyrs Brigade shown on the other
18 slide?

19 A Yes, it was carried out by al-Aqsa Martyrs Brigade
20 people.

21 Q Now, explain how these two organizations, given your
22 investigation, how this suicide bombing was carried out?

23 A I would like to first of all emphasize that this is not a
24 joint venture of those two organizations. It's only a shared
25 claim of responsibility. Because after the planning of the

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1 attack and after the fact that it was intercepted for security
2 reasons that I have mentioned earlier, the Fatah people have
3 located this Jaara and saw him as the potential suicide
4 bomber. It was very, very easy, therefore, to mobilize him
5 for the mission, because he had already undergone the
6 preparations in Hamas. Ali Jaara was the ripe fruit in the
7 hands of the al-Aqsa Martyr Brigade; therefore, from the
8 minute he was found, and, therefore, later dispatched, they
9 didn't need too much preparation. They simply found the right
10 moment, they fitted him with explosive belt, transported him
11 to Jerusalem to carry out the attack.

12 This is why I see here a double responsibility, a
13 shared, a joint responsibility, both Fatah, a joint
14 responsibility for this attack, because without this basic
15 important preparation carried out by Hamas, I doubt whether
16 this terror attack would have been executed. And it was
17 executed because the suicide bomber was already prepared to
18 carry out the attack. I cannot determine whether he did this
19 with the fate of Hamas in his heart, because he is no longer
20 here; he is elsewhere.

21 The picture we can see, the bottom of the slide, the
22 way he was dressed in the Hamas clothes; behind him there's a
23 Hamas flag, and in his hand, the way I know the picture and
24 the video, he's holding the book of Quran, and the will was
25 written in his name as a member of Hamas.

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1 Q Now, were -- the two Hamas operatives shown on your
2 slide, Adawin and Nashash, were they ultimately convicted?

3 A Yes, they were both convicted by the Israeli court.

4 MR. TURNER: Your Honor, we would offer 4044 and
5 4045 as the Apostille or certified copies of convictions of
6 Adawin and Nashash.

7 THE COURT: Received over objection.

8 (Plaintiffs' Exhibit 4044, 4045 was received in
9 evidence.)

10 MR. TURNER: Show the witness 4049, please.

11 Q Can you identify 4049?

12 A Yes, I do.

13 Q What is 4049?

14 A This document is the official claim of responsibility by
15 Hamas organization for the bombing of Bus 19 by the suicide
16 bomber Ali Jaara.

17 Q And what is the source of 4049?

18 A The source is the official website of Hamas organization,
19 its military wing Qassam Brigade.

20 MR. TURNER: We offer 4049.

21 THE COURT: That's received over objection.

22 (Plaintiffs' Exhibit 4049 was received in
23 evidence.)

24 Q Did you likewise have access to an ISA report, confirming
25 your assessment Hamas did, in fact, play a role in carrying

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1 out this attack?

2 A Yes.

3 Q And did you likewise have access to other government
4 agency records, including from the Ministry of Foreign
5 Affairs, and also the Prime Minister's Office that further
6 confirmed Hamas' role in carrying out this terrorist attack?

7 A Yes, I did have the opportunity to see these documents
8 that confirmed the part Hamas played in this terrorist attack.

9 Q Did you likewise have access to a will of Ali Jaara
10 prepared by Hamas prior to this attack?

11 A Yes.

12 Q And did you likewise have any access to any
13 memorializations glorifying Ali Jaara, prepared by Hamas, as a
14 result of this attack?

15 A Yes, indeed, Hamas published various memorialization
16 materials in memory of Ali Jaara, being a member of Hamas.

17 MR. TURNER: Would you like to take a morning break,
18 or would you like me to move into the 24th attack?

19 THE COURT: And then you'll ender that?

20 MR. TURNER: Yes, sir.

21 THE COURT: Let's go ahead.

22 Q Did you have an opportunity to investigate the mortar
23 attack on September 24, 2004, at a place called Neve Dekalim?

24 A Yes, I did investigate it.

25 Q Now, first of all, tell us where Neve Dekalim is and the

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1 significance of that city.

2 A Neve Dekalim is a settlement in the Gaza Strip. It is a
3 relatively medium-sized locality that is at the distance of
4 sometimes dozens or hundreds of meters away from Palestinian
5 homes in the Gaza Strip. This place no longer exists because
6 it was evacuated, by the way.

7 MR. TURNER: May we display the slide for this
8 attack?

9 THE COURT: Yes.

10 Q First of all, can you describe for us -- in the context
11 of your investigation, were you able to identify specifically
12 who, the persons, in other words, that launched the mortars
13 into Neve Dekalim?

14 A One must remember that this particular terror attack,
15 that firing of mortars, is very different from all the others
16 that we have discussed so far; from the shooting attacks, from
17 laying bombs, and definitely, most certainly, from attacks
18 carried out by suicide bombers. Such an attack is carried out
19 from a distance. They launch the mortars, and in most cases
20 we cannot see who exactly launched that fire. It is hard to
21 determine who, specifically, the names of those people who
22 carried out the attack. Such details, if at all, can be
23 obtained not in every case by intel operations.

24 Q Now, in this particular attack, did you have access to
25 any government records relating to the investigation, for

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1 instance, the ISA report?

2 A In this case, I have to mention that I did see another
3 report that was published by the Prime Minister's Office. It
4 was not attached to my report because I only discovered it
5 after completing writing my report. In this report, they
6 disclose the killing of a terrorist.

7 MR. INGERMAN: Objection, your Honor. Move to
8 strike.

9 MR. TURNER: That's not in evidence. Let me -- I
10 have to ask the question first.

11 THE COURT: For the record, the objection is
12 sustained.

13 MR. TURNER: Explain to him that he can't answer
14 that question.

15 Q Now, during the course of your investigation, Mr. Shaked,
16 were you able to conclude that Hamas played a role in this
17 particular mortar attack?

18 A Yes.

19 Q And what is your conclusion?

20 A Hamas published his official claim of responsibility for
21 this terror attack carried out in Neve Dekalim. The claim of
22 responsibility was on the very same day that the terror attack
23 was conducted.

24 MR. TURNER: Show the witness 4073, please.

25 Q Can you identify 4073?

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1 A Yes, I can recognize it.

2 Q And what is 4073?

3 A In the upper part of this slide, you can see the official
4 claim of responsibility made by Hamas organization, stating
5 that it carried out the mortar fire attack on 24th September
6 2004 at 10:50 in the morning, and that was the Friday morning.

7 MR. TURNER: Okay. If we can offer that into
8 evidence, 4073.

9 THE COURT: Need a better foundation.

10 Q What is the source of 4037, sir?

11 A The official website of Qassam Brigade, the military wing
12 of Hamas.

13 THE COURT: That is received over objection.

14 (Plaintiffs' Exhibit 4037 was received in
15 evidence.)

16 MR. TURNER: May we display 473, the translated
17 investigation?

18 THE COURT: Yes.

19 MR. TURNER: If you can blow up the description once
20 it gets up on the screen, please. That's fine for right now.

21 Q First of all, Mr. Shaked, do you recognize the logo, the
22 emblem?

23 A I recognize the logo, yes.

24 Q And of what organization does that logo or emblem belong?

25 A This logo belongs to Qassam Brigades, military wing of

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1 Hamas.

2 Q The date 9/24/2004, is that the date of the mortar attack
3 at Neve Dekalim?

4 A Indeed so.

5 Q Now, are the facts that are described in the first
6 sentence -- specifically the Qassam Brigades claims full
7 responsibility for an operation of firing three 100-millimeter
8 mortar shells in the direction of the Neve Dekalim settlement,
9 at exactly 10:30 a.m. today, is that consistent with what your
10 investigation found, in terms of what transpired?

11 A Yes, it is consistent with my findings.

12 Q The sentence -- two sentences down from that, the
13 al-Qassam Brigades have already announced the mortar shells
14 were fired at the aforementioned settlement in proclamation
15 number 107/0409, which was issued at exactly 10:50 on Friday
16 morning, 10th of Shabon 1425, Hitiri 92404. Did you have
17 access to that proclamation?

18 A Yes, I did have such access.

19 Q And did that likewise confirm that Hamas played a role in
20 this particular attack?

21 A Yes.

22 MR. TURNER: Could you show the witness 4034,
23 please.

24 Q Can you identify 4074?

25 A Yes.

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1 Q What is 4074?

2 A This is the claim of responsibility for the terror attack
3 carried out at 10:30 on Friday, on the date of
4 September 24th, 2004.

5 Q What is the source of 4074?

6 A The official website of Qassam Brigades, the military of
7 Hamas.

8 MR. TURNER: We offer 4074.

9 THE COURT: That is received over objection.

10 (Plaintiffs' Exhibit 4074 was received in
11 evidence.)

12 Q Now, based upon your investigation, did you have anything
13 in terms of conviction or other government records, other than
14 what you've already mentioned, or memorializations for this
15 particular attack available for you to review?

16 A No, I didn't have any other terms of Hamas.

17 Q Now, based upon the information that you did have access
18 to, were you able to conclude what with a reasonable degree of
19 probability whether Hamas played a role in the mortar attack
20 at Neve Dekalim?

21 A We were talking about standard mortar bombs that were put
22 into use right at that time by Hamas. Hamas was the
23 organization, the only one that smuggled them into the Gaza
24 Strip, and was the only organization to use such bombs. So
25 this is yet another indication linking Hamas with the attack,

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1 along with the official claim of responsibility it issued.

2 Q As a result of your work on these 24 attacks -- it's
3 been, what, a day and a half almost two days since we began
4 going through all 24 attacks. Have you had an opportunity to
5 prepare charts that summarized the sources of information that
6 you had access to for each of the 24 attacks?

7 A Yes, I have.

8 MR. TURNER: Could you put the first chart in front
9 of the witness?

10 Q Can you identify these charts?

11 A Yes, I recognize what I have on my screen.

12 Q Were you able to put check marks in each of the
13 categories, running from left to right, across the top?

14 MR. TURNER: You can go ahead and put the check
15 marks in for him.

16 THE WITNESS: The sources that I have used, yes.

17 Q And do -- these sources that you have checked off, do
18 they constitute a summary of all the sources you had available
19 for each of the given attacks?

20 A I do hope that I have used all the sources that were
21 available to me and that I could reach in the period when I
22 wrote the report.

23 Q You've done this for each of the 24 attacks?

24 A For each of the attacks.

25 MR. TURNER: Your Honor, we would like to offer

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1 these three charts with the check marks, pursuant to Rule
2 1006, as summary charts.

3 THE COURT: All right. It's admitted over objection
4 as a summary.

5 (Plaintiffs' Exhibit 1006 was received in
6 evidence.)

7 MR. TURNER: And one moment, please.

8 (Pause in proceedings.)

9 MR. TURNER: The next in line number is 4790. And
10 may we display this very quickly?

11 THE COURT: Yes.

12 Q Display the first page, if you would, with the check
13 marks. And we have one of these pages for each attack; is
14 that correct, sir.

15 A That is correct.

16 MR. TURNER: Your Honor, with that, I pass the
17 witness -- there is one thing that -- I was given a note a
18 while ago. We offer into evidence as Exhibit 37-E3, and this
19 is from the Kiryat Arba attack, the conviction records for
20 al-Din Misk, which are Apostille.

21 THE COURT: Those are received over objection.

22 MR. TURNER: And with that, I pass the witness.

23 THE COURT: Ladies and gentlemen, let's take our
24 morning break. Please don't talk about the case amongst
25 yourselves or anyone else. We will reconvene at 11:30. See

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1 you in just a few minutes.

2 (Outside the presence of the jury.)

3 THE COURT: The witness may step down, and everyone
4 can sit.

5 One thing I want to raise with the parties, we had
6 talked about sitting on September 9th, and we had agreed that
7 Ms. Clark would approach the jury and see if they had any
8 problems with that.

9 MR. WERBNER: Was the 5th, wasn't it?

10 THE CLERK: The 5th.

11 THE COURT: Friday, I'm sorry. Juror Number 9 has a
12 problem. We don't know the nature of the problem. I'd like
13 the parties' permission to talk to her privately and see if I
14 can persuade her to reschedule whatever she has that day. Is
15 that okay?

16 MR. WERBNER: Yes, sir.

17 MR. STEPHENS: Okay.

18 THE COURT: Let's see what I can do.

19 (Recess in proceedings.)

20 (Proceedings continued on the following page.)

21

22

23

24

25

PROCEEDINGS

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1 (Honorable Brian M. Cogan takes the bench.)

2 THE COURT: All right. Be seated. What's up?

3 MR. TURNER: I just have one process issue, I
4 wanted to make sure I understood. It goes back when
5 Mr. Geisser was here. I can't remember who was
6 cross-examining, but they were -- began to display things in
7 front of the jury without laying the foundation for them or
8 sharing them.

9 THE COURT: Okay. If it's not in evidence, they
10 can't do that, okay? You can show it to the witness first
11 and then offer it. And then if accepted, testify about it.
12 Only generic descriptions from the witness as to what the
13 witness is looking at if it's not in evidence.

14 MR. INGERMAN: I understand.

15 THE COURT: I spoke to juror number nine, and
16 she's going to rearrange her schedule so she we can sit next
17 Friday.

18 MR. WERBNER: Can I renew my motion regarding the
19 temperature? I mean, it's, like, really, really cold.

20 THE COURT: I will say when I walked in just now,
21 it seemed, to me, quite cold. But let me ask. I'll do it.
22 Again, don't be shy if people think it's too cold in here.

23 MR. WERBNER: I want to note this, one of the
24 jurors has a blanket covering her almost completely. I've
25 heard -- now they're whimpering out now, but I've heard a lot

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1 of people.

2 THE COURT: Okay. We will turn up the temperature
3 somewhat and see if that alleviates it.

4 MR. WERBNER: Thank you.

5 (Jury is in the courtroom at 11:35 a.m.)

6 THE COURT: All right. Be seated, please.

7 Cross-examination.

8 MR. INGERMAN: Thank you, your Honor.

9 CROSS-EXAMINATION

10 BY MR. INGERMAN:

11 Q Good morning, Mr. Shaked.

12 A Good morning.

13 Q We haven't met before. My name is Brett Ingerman. I
14 represent the bank in this case.

15 A I am --

16 Q Now, in the last two days we've heard a lot from you
17 about Hamas. And we can agree that Hamas is a criminal
18 terrorist organization, right?

19 A Yes.

20 Q And we can agree that Hamas commits horrible crimes
21 where they maim and kill innocent people; is that right?

22 A Yes.

23 Q In fact, it's hard to get our minds around how an
24 terrorist organization commits those acts; is that right?

25 A Yes.

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1 Q And you understand, do you not, that Hamas is not the
2 defendant that is on trial in this case?

3 A Yes.

4 Q Now, you speak English, correct?

5 A Not at the legal level.

6 Q Okay. But you speak some English?

7 A Yes.

8 Q And you read some English?

9 A Yes.

10 Q And you understand English?

11 A Yes.

12 Q But you're more comfortable having an interpreter in
13 court; is that right?

14 A Yes, and I said why.

15 Q Now, I want to talk a little bit about your testimony
16 with respect to Hamas not being a secretive organization.

17 Now, you testified, if my notes are correct, that
18 Hamas was not a secret organization, right?

19 A That is correct.

20 Q And that everyone knew what the Hamas structure was?

21 A I didn't say "everyone" I said those who needed to
22 know.

23 Q Okay. Who were those that need to know?

24 A We start with the general public, media people,
25 government people, people who live in a neighborhood where

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1 there are Hamas people, people who need services from Hamas,
2 or any other contact with Hamas, people who want to join
3 Hamas, et cetera.

4 Q Would you agree with me, Mr. Shaked, that during the
5 2000 to 2004 time period, that Hamas members -- most Hamas
6 members want to keep their membership secret?

7 A No, only the people of the military wing of Hamas
8 wanted to keep their identity secret.

9 MR. INGERMAN: Sean, can we pull up, Mr. Shaked's,
10 deposition page 59, lines 17 to 22.

11 Q Now, Mr. Shaked, you remember you had your deposition
12 taken in this case, right?

13 A Yes.

14 Q And you were asked a number of questions and gave a
15 number of answers under oath, correct?

16 A Yes.

17 Q Then you had an opportunity to review the deposition
18 transcript and make any corrections, right?

19 A Yes.

20 MR. SHAND: Okay. Sean, can we put up on the
21 screen page 59 line 17 to 22. Your Honor, I'd like to
22 display this to the jury as well.

23 THE COURT: Okay.

24 Q Now, Mr. Shaked, do you remember being asked the
25 question at line 17: "In your experience, do most Hamas

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1 members want to keep their membership secret?"

2 And would you please read the answer for me, and
3 we'll have the translator -- can you read English?

4 THE COURT: I don't think this is the way to
5 proceed. I think what you have to do is you have to read
6 him the question and the answer and then say to him, were
7 you asked this question and did you give this answer.

8 MR. INGERMAN: That's where I was headed with the
9 translation. Thank you, your Honor.

10 Q So, Mr. Shaked, you were asked the question: "In your
11 experience, do most Hamas members want to keep their
12 membership secret?" And you gave the following answer: "In
13 the period we're talking about, many of them wanted to keep
14 it a secret, because they were afraid of being arrested."

15 Is that the answer you gave at your deposition?

16 A Yes, this is what I said.

17 Q Okay. Now, the Israel Security Agency puts a lot of
18 money -- strike that.

19 In the 2000 to 2004 time period, the Israel
20 Security Agency put a lot of time and money and effort into
21 trying to stop terrorist attacks in Israel, isn't that
22 right?

23 A Correct.

24 Q And it wasn't only the Israel Security Agency that was
25 trying to prevent terrorist attacks during this time period,

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1 it was also the Israel defense forces as well, correct?

2 A Yes.

3 Q But it was also the Israel Police, correct?

4 A Correct.

5 Q And there was a secret police called the Mossad that
6 was trying to prevent terrorist attacks during this time
7 period; is that right?

8 A That is correct.

9 Q And all of those organizations within Israel were
10 trying to figure out who the Hamas military members were who
11 were going to be carrying out suicide bombings and other
12 terrorist attacks, correct?

13 A That's right.

14 Q And notwithstanding all of these resources as part of
15 Israel government, the Israel government wasn't able to stop
16 any of these 24 attacks that we're here about; is that
17 right?

18 A Correct.

19 Q And if the Israel government knew who these Hamas
20 operatives were that were going to carry out these attacks,
21 what would they have done?

22 A It would thwarted their activity.

23 Q They would have been arrested?

24 A Of course.

25 Q Or they would have been killed?

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1 A I can't say that, but they would have stopped them,
2 taken steps against them.

3 Q Now, during your direct examination you were shown by
4 Mr. Turner a document that was a designation by the United
5 States government of certain terrorists. Do you recall
6 that?

7 A Yes.

8 Q And they were designated on what is known as the OFAC
9 list, right?

10 A I'm not a legal man. I know that they were designated
11 in this list without a real understanding the meaning of the
12 designation.

13 Q You don't understand the meaning of the designation
14 that Mr. Turner showed you during your direct examination?

15 A Yes, I do.

16 Q Okay. And you understand that countries around the
17 world have these lists that are called blacklists where
18 terrorists and other criminals are designated?

19 A That's right.

20 Q And it's true, is it not, that not a single person, not
21 a single picture of a single person in any of the slides
22 that you presented to this jury for any of the attacks is
23 designated on any list anywhere in the world?

24 A I am not familiar with all of those lists, but in the
25 slides, as far as I know, they're not the same people.

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1 Q Now, Mr. Shaked, I want to talk a little bit about your
2 qualifications.

3 A Yes.

4 Q I apologize, what is it that you do right now,
5 presently?

6 A I am a researcher at the Truman Institute, Hebrew
7 University of Jerusalem at the Middle Eastern Desk.

8 Q When did you start that job?

9 A In 2012.

10 Q Okay. And prior to 2012, you were a newspaper reporter
11 at the newspaper Yediot Ahronot, correct?

12 A Correct.

13 Q And you started at Yediot Ahronot in 1982?

14 A Yes, at the end of 1982.

15 Q So from 1983 to 2012, your principle employment was
16 being a newspaper reporter; is that correct?

17 A Yes, that was my principle occupation, but not the only
18 one.

19 Q You have no professional training in determining which
20 terrorist organization is responsible for committing a
21 particular attack, isn't that true?

22 A That is correct.

23 Q And you've never been a prosecutor, correct?

24 A No.

25 Q You have no legal training?

R. SHAKED - CROSS/MR. INGERMAN

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1 A No.

2 Q You're not a lawyer?

3 A No.

4 Q You've never been a member of the Israel Police,
5 correct?

6 A No.

7 Q And you left the Israel Security Agency in 1982, right?

8 A Correct.

9 Q And that was five years before Hamas was even formed,
10 correct?

11 A Correct.

12 Q Now, during the time that you were a newspaper reporter
13 at Yediot Ahronot, it's true, is it not, that you were
14 suspended in 1999 for publishing incorrect facts in one of
15 your newspaper articles?

16 A Yes, that is correct, I was suspended.

17 Q Now, let's talk a little bit about the methodology by
18 which you arrived at your opinions offered to the jury in
19 this case.

20 The methodology that you use to offer your
21 opinions to the ladies and gentlemen of the jury is very
22 important, is it not?

23 A Yes.

24 Q And you developed this methodology that you use all by
25 yourself, right?

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1 A Almost all of it, yes.

2 Q And you developed it for purposes of these cases, this
3 litigation; is that right?

4 A Among other things, yes.

5 Q And you named the methodology the Ronni Shaked
6 Methodology; is that right?

7 A In the deposition they named it like this, but you can
8 call it anyway you like.

9 Q You named it that way, didn't you?

10 A I repeated laughing what the respectable lawyer had
11 said.

12 Q Okay. The lawyer asked you, does your methodology have
13 a name, and you called it the Ronni Shaked Methodology,
14 right?

15 A Yes, but that was when we were talking on both sides
16 and they came from him. He was the one who wanted to
17 emphasize it.

18 Q Now, Mr. Shaked, you've been hired by the same
19 plaintiffs lawyers not only in this case, but in other
20 cases, isn't that right?

21 A Yes, correct.

22 Q How many other cases are you working for these
23 plaintiffs lawyers in?

24 A Two other cases.

25 Q And how much have you been paid by the plaintiffs

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1 lawyers for your work in all of these cases?

2 A About \$96,000. I don't know the exact amount, but
3 about that.

4 Q Okay. And are you owed any money by them?

5 A Yes, for the last period.

6 Q Which is how much?

7 A I think it's 20 to \$22,000, if I'm not mistaken.

8 Q So about \$120,000 all in?

9 A I imagine so.

10 Q Other than the cases you've been hired by these
11 plaintiffs lawyers, have you used your Ronni Shaked
12 Methodology in any other cases?

13 A I was not asked to use it.

14 Q And you're not aware of anyone else that uses the
15 methodology that you've employed as you've presented it here
16 to the ladies and gentlemen of the jury, isn't that right?

17 A I recently read an article by Lila Rose, a
18 distinguished professor from the United States, who used
19 very similar methods to mine to diagnosis Hamas and other
20 types of organizations.

21 Q Do you remember when you had your deposition taken?

22 MR. INGERMAN: Sean, if we can pull up page 27,
23 lines nine through 16, please. Your Honor, if we can
24 publish that to the jury?

25 THE COURT: Okay.

R. SHAKED - CROSS/MR. INGERMAN

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1 Q Now, Mr. Shaked, at your deposition you were asked the
2 following question: "Has anyone else other than you, used
3 the Shaked Methodology?" And your answer was: "As far as I
4 remember. And to the best my knowledge I didn't find anyone
5 else who dealt with this specific subject; therefore, I
6 didn't find any use of it."

7 Do you see that? You gave that answer to that
8 question at your deposition, did you not?

9 A Yes, I did give such an answer before I read Professor
10 Rose's book.

11 Q Now, am I right that the Israel Security Agency doesn't
12 use the Ronni Shaked Methodology, am I right?

13 A I don't know, I am no longer there.

14 Q Do you know whether judges use the Shaked Methodology?

15 A I cannot recall a case in which this methodology had to
16 be used.

17 Q Now, during the course of your work, you have
18 personally received -- strike that.

19 During the time that you were at the newspaper
20 Yediot, you personally received E-mail claims of
21 responsibility during the time that you were there, isn't
22 that right?

23 A Yes, this is correct.

24 Q And sometimes they were true and sometimes they were
25 not true?

R. SHAKED - CROSS/MR. INGERMAN

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1 A This is correct.

2 Q Now, as part of your methodology, you rely on, among
3 other things, newspaper articles, right?

4 A Yes.

5 Q And you agree with me that sources like CNN, the Cable
6 News Network are a reliable source of information?

7 A Yes, one can rely on them with respect to the time that
8 the broadcasts are being made.

9 Q Now, you told the ladies and gentlemen of the jury
10 about certain interviews of certain terrorists that you
11 relied on in developing your opinions, right?

12 A Yes, I did rely on interviews.

13 Q And when you conducted those interviews, am I right
14 that those terrorists were not under oath as you are here
15 today before the jury, right?

16 A No, but the terrorists that I interviewed in prison
17 gave me declaration or statement that they made that they
18 were giving the interview out of their own free will, not
19 under any duress.

20 Q And you believe that what these terrorists told you was
21 true?

22 A I believe that what they said was the truth.

23 Q Now, you also rely on -- and I think you've shown the
24 ladies and gentlemen of the jury a number of materials from
25 the internet, am I right?

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1 A That is correct.

2 Q And you'd agree with me that when it comes to the
3 internet, anyone can write anything on the internet?

4 A I'm not an internet expert. I do not know how one
5 writes on the internet, but I do know there are websites
6 where people can write what they want. I don't know if that
7 applies to official websites of organizations or groups.

8 MR. INGERMAN: Sean, can we take a look at
9 Mr. Shaked's deposition testimony, page 94, lines five
10 through ten.

11 Your Honor, I'd like to display that to the jury.

12 THE COURT: Okay.

13 Q Now, at your deposition, Mr. Shaked, when you were
14 under oath, you were asked the question: "Do you agree that
15 when it comes to relying on the internet, anybody can write
16 anything on the internet?" And you gave the answer: "Yes."

17 Correct?

18 A Yes.

19 Q Now, can we also agree that Hamas websites on the
20 internet exaggerate?

21 A Yes. And I also found exaggerations on internet
22 websites of Hamas.

23 Q In fact, on the internet website for Hamas al-Qassam,
24 you found that Hamas makes great exaggerations on that
25 website, didn't you?

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1 A I did not know if I actually said great exaggerations,
2 but I can give you examples with the type of exaggerations I
3 related. That pertains to the number of people they killed,
4 which is not in line with the actual number of people, and
5 also the number of injured people, or the way the operation
6 was carried out. Such exaggerations portray the
7 perpetrators of the attack, but it's not the kind of
8 exaggerations that relates to things that never happened.

9 MR. INGERMAN: If we can take a look, Sean, at
10 page 150 of Mr. Shaked's deposition, lines four through 14.

11 And I'd like to display that to the jury.

12 Q Now, at your deposition, Mr. Shaked, you were asked the
13 following question: "Does www.alqassam.ps make mistakes?"
14 And your answer was: "I can estimate that they were trying
15 to do reliable, but of course they view reality through
16 their own spectacles."

17 Did you give that answer?

18 A Yes, that was my answer.

19 Q And then you were asked: "Do they make factual
20 mistakes on important facts?" And your answer was:
21 "Sometimes there are great exaggerations, yes."

22 That was your answer, correct?

23 A Yes. What I meant was the number of fatalities or the
24 number of injured people, these are the many exaggerations
25 that I meant.

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1 MR. INGERMAN: Okay. We can take that down, Sean.
2 Thank you.

3 Q Now, Mr. Shaked, you testified that over the years
4 you've come to know personally some of the Hamas leaders,
5 isn't that right?

6 A Yes, this is correct. I know many of Hamas leaders.

7 Q You mentioned Rantisi being one, correct?

8 A Yes, I did mention the name of Abd al-Aziz al-Rantisi.

9 Q And Sheikh Ahmed Yassin?

10 A Yes, Sheikh Ahmed Yassin, too.

11 Q And you'd agree with me that Hamas leaders on occasion
12 have provided you with false information?

13 A Perhaps in any conversations with them they provided me
14 with false information, but I did know how to see through it
15 to figure it and to glean the truth from it.

16 Q So you were able to figure out when the terrorist
17 leaders were telling you the truth and when they were lying;
18 is that your testimony?

19 A I cannot say that I always know to distinguish truth or
20 lies, but I can say that based on many years of experience
21 both in the ISA and in my work in the newspaper, I learned
22 how to make the distinction and to compare those reports
23 with the reality, the existing reality, and to evaluate
24 whether that was an exaggeration or truth telling.

25 And I must add one more thing. That even when I

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1 received this information in those interviews, I would
2 always crosscheck them with other sources to confirm. And
3 so I know that, indeed, because I know that the people who
4 gave me and provided me with this information had certain
5 intentions to convey, certain messages.

6 Q And that's because sometimes the terrorist leaders have
7 an incentive to lie, right?

8 A Such senior leaders of such stature, they know that
9 lies do not live very long, they are very short-lived. So I
10 do hope they did not mean to lie when they talked with me.

11 Q Now, can we agree, Mr. Shaked, that terrorist groups
12 operating in Israel and the Palestinian Territories between
13 the years of 2000 and 2009 had an incentive to claim
14 responsibility for terrorist attacks?

15 A Of course they did.

16 Q And would you agree with me that it is or it was in the
17 terrorist group's best interest to actually claim
18 responsibility for a terrorist attack?

19 A Yes. They did want to claim responsibility for the
20 terror attack that they perpetrated.

21 Q Because it was in their interest to do so, right?

22 A Yes, it was within their interest. It's the nature of
23 terror.

24 Q And that's important because there is fierce
25 competition between the terrorist groups in Israel during

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1 this timeframe, isn't that right?

2 A There was competition among organizations, yes.

3 Q And by claiming responsibility for a terrorist attack,
4 a particular terrorist group gains political clout, correct?

5 A That is correct.

6 Q It increases their popularity?

7 A If the population understands that this is a truthful
8 report, then it increases their popularity; if not, it
9 damages them.

10 Q It helps them raise money, right?

11 A This is one of the ways that assists them.

12 Q And they can use it for propaganda purposes?

13 A Yes, but with the permission of the distinguished
14 lawyer I would like to mention that here we are talking not
15 about separate organizations, this organizations are
16 embedded in identifying who is who and what is what. Lies
17 are discovered very, very quickly. This is a traditional
18 society with very, very dense social network where it is
19 very, very easy to detect lies, extremely fast.

20 I'll give you an example, with your permission.

21 If, for example, a certain individual gets killed by
22 perpetrating an attack, it is extremely easy to identify the
23 organization he belonged to judging by the symbols and the
24 speeches made and very same standards that I used in the
25 criteria in my methodology. It is very, very easy and the

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1 public knows that.

2 Q Now, let's talk about some of the terrorist groups that
3 were claiming responsibility for attacks in Israel between
4 2000 and 2004.

5 A Please.

6 Q One of those organizations was of course the al-Qassam
7 Brigade, which is Hamas, right?

8 A Yes, this is the military wing of the Hamas
9 organization.

10 Q Another terrorist organization that was active, for
11 lack of a better term, during this time period was the
12 al-Aqsa Martyrs Brigade?

13 A Yes. The military wing of the Fatah organization.

14 Q And Fatah is different than Hamas, right?

15 A Definitely so.

16 Q And another organization that was active in Israel and
17 the Palestinian Terrorists that was promoting terror was the
18 al-Quds Brigade, correct?

19 A The Jerusalem Brigade, correct.

20 Q And that's part the Palestinian Islamic Jihad, correct?

21 A Yes, it is the military wing of the Islamic Jihad.

22 Q And yet, there was another terrorist organization at
23 the time in the Israel and Palestinian Territories and that
24 was called Hezbollah, correct?

25 A In this particular timeframe this activity in the

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1 territories was extremely limited, but it was somewhat
2 active, yes.

3 Q And Hezbollah is a Lebanese terrorist group founded by
4 Iran, correct?

5 A This is correct.

6 MR. INGERMAN: Your Honor, if I may approach, I
7 have a demonstrative that just lists out the four groups
8 that we just talked about that I'd like to put up on the
9 stand here.

10 THE COURT: Have you shown it to the plaintiffs?

11 MR. INGERMAN: I will do that right now.

12 MR. TURNER: No problem.

13 THE COURT: Okay.

14 MR. INGERMAN: Thank you. Mr. Shaked, I've put up
15 on the stand here -- you can't see this, let me show you.
16 It's a board that's entitled, "Claims of Responsibility,"
17 and it lists the four groups we just talked about; al-Aqsa
18 Martyrs Brigade from Fatah, al-Quds Brigades from the
19 Palestinian Islamic Jihad, Hezbollah and Hamas, okay?

20 A Yes, these are some of the Palestinian groups.

21 Q Okay. I'm going to leave that up there for some of the
22 examination here, because we're going to refer to some of
23 the different groups.

24 Now, the plaintiffs lawyers in this case asked you
25 to look at these 24 attacks to determine whether or not they

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1 were the responsibility of Hamas, right?

2 A Correct.

3 Q And you were paid about \$120,000 to do that, right?

4 A Yes.

5 Q And low and behold, you claimed that all 24 attacks

6 were the responsibility of Hamas, right?

7 A Yes.

8 Q Let's take a look at the Bus 19 bombing, if we could.

9 Now, the Bus 19 bombing occurred on January 29,
10 2004, right?

11 A Correct.

12 Q And you were aware, were you not, that there were a
13 number of claims of responsibility for this attack from
14 groups other than Hamas?

15 A Correct.

16 Q And you knew, for instance, on the day of the bombing,
17 a newspaper by the name of "Israel Insider" reported that
18 Fatah's al-Aqsa Martyrs Brigade claimed responsibility,
19 isn't that right?

20 A Yes, I knew this.

21 MR. INGERMAN: And if we could put up just for the
22 witness, Sean, Defense Exhibit 1016.

23 Q You recognize this as a claim of responsibility in the
24 Israel Insider, yes?

25 A Yes, this is what the paper reported.

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1 MR. INGERMAN: Your Honor, I move admission for
2 Defense Exhibit 1016.

3 MR. TURNER: No objection.

4 THE COURT: It is received.

5 (Defense Exhibit 1016 was admitted into evidence.)

6 Q Now, you also knew that on the same day as the Bus 19
7 bomber, that the Israeli Prime Minister's Office came out
8 and said that the bomber, Jaara, is a member of the military
9 arm of Fatah, correct?

10 A Yes, I know that.

11 MR. INGERMAN: If we could put before the witness,
12 Sean, Defense Exhibit 10:30.

13 Q You recognize that to be the Israeli Prime Minister's
14 Office release?

15 A Yes, this is the prime minister's office release.

16 MR. INGERMAN: Your Honor, I move defense
17 Exhibit 10:30.

18 MR. TURNER: I thought you already ruled on the
19 prime minister exhibits. I object.

20 THE COURT: I did. Sustained.

21 BY MR. INGERMAN:

22 Q But you knew, did you not, that the Israeli Prime
23 Minister's Office had identified the bomber on Bus 19,
24 Jaara, as a member of the al-Aqsa Martyr Brigade, military
25 arm of Fatah?

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1 A Yes. On the day of the bombing he was identified as a
2 member of the al-Aqsa Brigade.

3 Q Now, you also knew, did you not, that a day later on
4 January 30, 2004, a day after the Bus 19 bombing, the New
5 York Times reported that the al-Aqsa Martyr Brigade claimed
6 responsibility for the attack, right?

7 A That is correct.

8 MR. INGERMAN: And if we could put before just the
9 witness, Defense Exhibit 1019, Sean.

10 Q That is the New York Times article we were just
11 referring to, correct?

12 A Yes.

13 MR. INGERMAN: Your Honor, I'd move DX 1019.

14 THE COURT: Let's have a sidebar, please.

15 Unless the plaintiff is going to tell me they
16 don't object.

17 MR. TURNER: I do object.

18 MR. INGERMAN: I didn't hear what he said, did he
19 say that he has no objection?

20 THE COURT: No, he objects.

21 (Continued on the next page for sidebar.)
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23
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25

SIDEBAR CONFERENCE

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1 (Sidebar conference begins.)

2 THE COURT: I'm not sure I understand the
3 defendant's position on this. The plaintiff had offered a
4 number of newspaper articles and prime minister press
5 releases, which I excluded on the ground of hearsay. I
6 don't see how your newspaper articles and prime minister
7 press releases are any less hearsay.

8 MR. INGERMAN: Well, for starters, we're not
9 offering them for the truth of the matter asserted. We are
10 offering them to impeach the witness.

11 THE COURT: No. They impeach the witness by
12 showing that, in fact, somebody else did it, that's what it
13 says. That's how they impeach the witness. You can
14 question him about them, but the article don't come in. You
15 can say, are you familiar with those? Did you know that
16 prime minister said so and so claimed responsibility? But
17 if the article were to come in, I can't think of a reason
18 that you would be offering it other than to impeach him by
19 showing that what he's saying is wrong that somebody else
20 committed the crime, someone who he has not identified.

21 MR. INGERMAN: Well, if it's quoting a terrorist
22 group claiming responsibility, then it's a declaration
23 against interest.

24 THE COURT: Well, yeah, but that's the first level
25 of hearsay. I mean, that's the second level of hearsay.

SIDEBAR CONFERENCE

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1 The first is that it's a newspaper article, it's not the
2 group. That's why I didn't let them put in the newspaper
3 articles when you objected. All right?

4 If you have some primary source as they did of a
5 terrorist group taking responsibility, then yes, I'll admit
6 those, but not newspaper articles. Okay?

7 (End of sidebar conference.)

8 (Continued on the next page.)

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1 MR. INGERMAN: May I proceed, your Honor?

2 THE COURT: You may. As soon as the reporter is
3 ready.

4 MR. INGERMAN: She's the second most important
5 person in the room.

6 BY MR. INGERMAN:

7 Q When we broke we were talking about DX 1019; that is
8 the New York Times article that you had seen before that
9 refers to the claim by the al-Aqsa Martyrs Brigade for the
10 Bus 19 bombing; is that correct?

11 A Correct.

12 Q Now, you also knew that on January 30, 2004, the day
13 after the Bus 19 bombing, that the Israeli newspaper Haaretz
14 also published a claim of responsibility by Fatah for the
15 Bus 19 bombing, correct?

16 A Correct.

17 Q And then on that same day, January 30, 2009, one day
18 after the Bus 19 bombing, you, yourself, wrote an article
19 about the bombing, didn't you?

20 A That is correct, I did.

21 Q And you didn't tell the ladies and gentlemen of the
22 jury about that during your description of the Bus 19
23 bombing, correct?

24 A If I may explain in actual; according to my
25 methodology, I do not make any statements in a perspective

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1 one day after the attack. I do an in-depth check of all the
2 events and all the facts that I have. So one day after the
3 attack, it was possible that all the journalists, including
4 myself, said that it was the al-Aqsa Martyrs Brigade that
5 was responsible.

6 But I am not here as a journalist, and I am not
7 here as an ISA researcher to provide immediate answers
8 within an hour, I am here as an expert witness, and I do my
9 work with a prospective of time, and this is why I answered
10 the way I did.

11 MR. INGERMAN: Sean, if we could put before the
12 witness, Defense Exhibit 1038, please.

13 Q Is this the newspaper article that you wrote in the
14 Yediot Ahronot newspaper on January 30, 2004, about the
15 Bus 19 bombing?

16 A Yes, I did write this article.

17 MR. INGERMAN: Your Honor, I move defense
18 Exhibit 1038 in.

19 THE COURT: Any objection?

20 MR. TURNER: No objection to that.

21 THE COURT: It is received.

22 (Defense Exhibit 1038 was admitted into evidence.)

23 MR. INGERMAN: Your Honor, may I publish it to the
24 jury?

25 THE COURT: You may.

R. SHAKED - CROSS/MR. INGERMAN

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1 MR. INGERMAN: If we could go to the English
2 translation, Sean, please. And blow up the title for a
3 moment.

4 Q The article that you wrote, Mr. Shaked, on January 30,
5 2004, the title was, "The Promises That Nasralla Made." And
6 then it says, "Hezbollah easily penetrated the anarchy
7 existing in the territories."

8 Do you see that?

9 A Yes.

10 MR. INGERMAN: And then in the first -- I'm sorry,
11 the second paragraph, Sean, the first two sentences.

12 Q You say Ali Jara. Now, Ali Jara was the person who you
13 told the ladies and gentlemen of the jury was the bomber for
14 Bus 19, right?

15 A Correct.

16 Q And what you wrote in the newspaper on January 30th is,
17 "Ali Jara of Daheyshe, the terrorist who committed suicide
18 in Jerusalem yesterday was a member of the al-Aqsa Martyrs
19 Brigade, the military arm of the Fatah."

20 Do you see that?

21 A Correct.

22 (Continued on the next page.)

23

24

25

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1 Q Now, if we can go down to the fourth paragraph, the
2 first sentence. You also wrote about the bus 19 bombing,
3 "The attack yesterday had the Hezbollah's prints on it."

4 Do you see that?

5 A That is correct.

6 Q And am I right that you never even to this day issued a
7 retraction of this article in any way?

8 A Yes. There was never a retraction, but it was not my
9 fault. It was the paper's fault, because on the annual
10 report that I prepared for -- about all the attacks, the
11 editor decided not to publish this.

12 Q Now, when you wrote this article on January 30th, 2004,
13 were you hired by the plaintiffs' lawyers yet?

14 A No, of course not. And I published this article one
15 day after the attack. And I had the perspective of maybe
16 less than ten hours.

17 Q Now, do you also know what the Intelligence and
18 Terrorism Information Center at the Center for Special
19 Studies is?

20 A Yes.

21 Q And you also know that on January 1st of 2006, two
22 years after the bus 19 bombing, the Intelligence and
23 Terrorism Information Center at the Center for special
24 Studies concluded that the organization responsible for the
25 bus 19 bombing was the Fatah al-Aqsa Martyrs Brigade,

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1 correct?

2 A Yes.

3 Q Now, you also knew, did you not, that the National
4 Counter Terrorism Center in 2010 attributed the bus 19
5 bombing to Fatah al-Aqsa Martyrs Brigade, correct?

6 A I don't remember such a publication, but if you say so,
7 I believe you.

8 Q Well, I appreciate that, but I don't want you to take
9 my word for it.

10 MR. INGERMAN: Let's show just the witness,
11 please, Sean, DX1036.

12 BY MR. INGERMAN:

13 Q Have you seen that before, sir?

14 A Yes.

15 MR. INGERMAN: Okay. And if we can go to the next
16 page of it, Sean.

17 Can we go to January 21st. I'm sorry, January
18 29th. Blow that up for the witness. Hopefully he'll be
19 able to see it, as will I.

20 BY MR. INGERMAN:

21 Q Does that refresh your recollection, Mr. Shaked, that
22 in 2010 the National Terrorism Center concluded that the
23 Israel al-Aqsa -- the al-Aqsa Martyrs Brigade bus bomb in
24 Jerusalem -- I'm sorry. Start over again.

25 That the bus 19 bus bombing was carried out by the

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1 al-Aqsa Martyrs Brigade?

2 A Yes.

3 MR. INGERMAN: Now, if we can show just the
4 witness Defense Exhibit 1040.

5 BY MR. INGERMAN:

6 Q This is called a RAND Homeland Security Report. You
7 are aware, were you not, that the RAND Homeland Security
8 Report also concluded that the al-Aqsa Martyrs Brigade was
9 responsible for the bus 19 bombing?

10 A Correct.

11 MR. INGERMAN: This would be a good point for a
12 lunch break if you'd like.

13 THE COURT: Okay. We can break now.

14 Ladies and gentlemen, please don't talk about the
15 case amongst yourselves or with anyone else. We'll see you
16 back here at 1:40. Have a good lunch.

17 (Jurors exit the courtroom.)

18 THE COURT: Recess till 1:40.

19 (Continued on the next page.)

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Shaked - Cross- Ingerman

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1 (In the presence of the jury.)

2 THE COURT: Be seated, please. Welcome back, ladies
3 and gentlemen. Let's continue with cross-examination

4 MR. INGERMAN: Thank you, your Honor.

5 Q Now, Mr. Shaked, before we broke for lunch, we were
6 talking about the Bus 19 bombing, on January 29th, 2004,
7 correct?

8 A Yes.

9 Q And I had asked you about a document from the National
10 Counterterrorism Center, in which there was a recognition that
11 Fatah, the al-Aqsa Martyrs Brigade, was responsible for the
12 Bus 19 bombing; do you remember that? And that document was
13 dated 2010?

14 THE COURT: Wait. You didn't get the answer in yet.

15 Q And that was in 2010, right?

16 A Yes.

17 Q And you know, do you not, that the National
18 Counterterrorism Center is a United States Government
19 organization responsible for national and international
20 terrorism effort, right? And we also looked at, in connection
21 with the Bus 19 bombing, a document that you had seen before,
22 put out by the RAND Corporation; do you remember that?

23 A Yes.

24 Q And the RAND Corporation document also explained that the
25 al-Aqsa Martyrs Brigade from Fatah was responsible for the Bus

Shaked - Cross- Ingerman

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1 19 bombing, right?

2 A Yes.

3 Q And you know that the RAND Corporation report that I
4 showed you was commissioned by the United States Department of
5 Homeland Security, correct?

6 A That's correct.

7 Q Okay. Now, I want to talk a little bit with you about
8 what exactly happened in connection with the Bus 19 bombing.
9 And what I'm going to do is -- I'm actually going to put up
10 your slide, shown on, I think it's, Plaintiffs' slide 51.

11 MR. INGERMAN: Your Honor, may I display that to the
12 jury?

13 THE COURT: You may.

14 Q Now, this is the slide that you went through with
15 Mr. Turner about what happened in connection with the Bus 19
16 bombing, on January 29, 2004, right?

17 A Yes.

18 Q And you created this slide, correct?

19 A Yes.

20 Q Okay. Now, I want to take a look for a moment. In the
21 upper left-hand corner there's a man by the name of Nufal
22 Adawin; do you see that?

23 A Yes.

24 Q And I think Mr. Turner showed you and put into evidence
25 the verdict and sentencing for Mr. Adawin, correct?

Shaked - Cross- Ingerman

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1 A Yes.

2 Q And that conviction of Mr. Adawin, Nufal -- I call him
3 Nufal, if that's okay with you?

4 THE INTERPRETER: Was that a question? I'm sorry.
5 I didn't get the question.

6 Q I will call him Nufal so we understand each other, if
7 that's okay with you?

8 A That's fine.

9 Q Thank you. Now, Nufal was convicted based on a
10 confession that he gave; isn't that correct?

11 A Yes, that's correct.

12 MR. INGERMAN: And if we could put before just the
13 witness shown on Defense Exhibit 1039.

14 Q Do you recognize that to be Nufal's confession?

15 A This is his confession in the police, yes.

16 Q And this is something that you looked at in connection
17 with your work in this case, right?

18 A Yes, that's correct; I have looked at it.

19 MR. INGERMAN: Your Honor, I move admission of
20 Defense Exhibit 1039.

21 THE COURT: Any objection?

22 MR. TURNER: Is this the conviction?

23 THE COURT: No, this is the confession.

24 MR. TURNER: I think that's part of it, but we have
25 no objection.

Shaked - Cross- Ingerman

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1 THE COURT: It's admitted.

2 (Defense Exhibit 1039 was received in evidence.)

3 Q Now, Nufal's confession was read to him and signed by
4 him, correct?

5 A Yes.

6 Q And what -- and in this confession, Nufal explains in
7 detail what happened in connection with the Bus 19 bombing;
8 isn't that correct?

9 A He tells about all his connections with Ali Jaara,
10 because he didn't carry out the Bus 19 bombing.

11 Q Okay. So Mr. -- or Nufal, in his confession, says that
12 in the beginning of 2004, he had a friend named Muhammad
13 Nashash come to him, correct?

14 A Yes, that's correct.

15 Q And in your report and in your slide -- if we can put
16 back up slide 51 -- you identify Muhammad Nashash as a member
17 of Hamas, correct?

18 A Yes, that's correct.

19 Q Now, you know, do you not, Mr. Shaked, that in
20 Mr. Muhammad Nashash's sentencing, in connection with the Bus
21 19 bombing, he's actually identified and convicted as being a
22 member in an unauthorized association called al-Aqsa Martyrs
23 Brigade Fatah; isn't that right?

24 A With your permission, may I see the paper you're talking
25 about?

Shaked - Cross- Ingerman

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1 MR. INGERMAN: Please can we show the witness
2 Plaintiffs' Exhibit 4045. Just the witness, please.

3 Q Before using Plaintiffs' Exhibit 4045, which is Muhammad
4 Nashash's conviction and sentencing in connection with the Bus
5 19 bombing, you've seen that document before, sir?

6 A I've seen it, but if you could raise it a bit, pull it up
7 so I can see the names.

8 Q Whatever you like.

9 MR. INGERMAN: Shawn, can we make it a little bigger
10 for Mr. Shaked?

11 THE WITNESS: Not bigger. Scroll it.

12 Q Scroll down. I'm sorry. To the first page?

13 A To the other page.

14 Q One more page?

15 A Now, I can see it.

16 Q Okay. And this is the verdict and sentencing for
17 Muhammad Nashash, the person you claim is a part of Hamas, in
18 connection with the Bus 19 bombing, correct?

19 A Yes.

20 MR. INGERMAN: Your Honor, I would move Plaintiffs'
21 Exhibit 4045.

22 THE COURT: Any objection?

23 MR. TURNER: This is already in evidence.

24 MR. INGERMAN: Then I don't need to move it.

25 THE COURT: Okay.

Shaked - Cross- Ingerman

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1 A Could you scroll it, please, one page forward.

2 MR. INGERMAN: Please, Shawn, scroll it one page
3 forward.

4 THE WITNESS: Could I explain something small, if I
5 may?

6 Q You'll have an opportunity to explain when your lawyer
7 asks the questions. Let me ask you a couple questions,
8 please. Thank you. On page -- page 11 of the translation of
9 Mr. Nashash's sentencing, the Israeli court says --

10 MR. INGERMAN: Your Honor, I would like to show this
11 to the jury, please.

12 Q It says the defendant, which is Mr. Nashash, was
13 convicted of the crime of membership in an unlawful
14 association, and that since the end of March, 2003, and
15 through the time of his arrest, he was a member of the al-Aqsa
16 Martyrs Brigade.

17 Do you see that, sir?

18 A I see that.

19 Q And you understand, do you not, that Muhammad Nashash,
20 who was involved in the Bus 19 bombing, January 24th, 2004, is
21 a member of the al-Aqsa Martyrs Brigade from Fatah and not
22 Hamas. You understand that, don't you?

23 A From this document, I do understand that.

24 MR. INGERMAN: Let's go back to slide 51, Shawn, if
25 we can.

Shaked - Cross- Ingerman

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1 Q You have, on the slide that you demonstrated to the jury,
2 Muhammad Nashash as a Hamas operative; is that right?

3 A That's correct.

4 Q And he was convicted by the Israeli courts of being a
5 member of the al-Aqsa Martyrs Brigade, correct?

6 A As I saw in the conviction, that is, indeed, correct.

7 Q So there's a mistake in your slide, right?

8 A May I explain?

9 Q Was Mr. Nashash convicted of being a member of the
10 al-Aqsa Martyrs Brigade?

11 A Yes. According to the conviction papers, yes.

12 Q Okay. Now, when Muhammad came to Nufal, in connection
13 with this attack, Muhammad told Nufal, that he, Muhammad, had
14 a friend called Jaara, who wanted to commit a suicide bombing;
15 is that right?

16 A Yes, that's correct.

17 Q And Jaara came to Muhammad, who is al-Aqsa Martyrs
18 Brigade, right?

19 A I'm not familiar with whether he came to him as a member
20 of Allah or some other organization; he came to him because he
21 wanted to carry out a suicide bombing.

22 Q When Jaara came to Muhammad, Jaara was not affiliated
23 with any organization; is that right?

24 A Jaara was not affiliated with any organization; he simply
25 wanted to commit suicide.

Shaked - Cross- Ingerman

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1 Q So he came to his friend Muhammad, and Muhammad was a
2 part of the al-Aqsa Martyrs Brigade, right?

3 A According to that description, that's apparently how it
4 occurred.

5 Q Okay. So I'm going to write on your slide AAMB, for
6 al-Aqsa Martyrs Brigade, over Mr. Nashash. Now, it is
7 Muhammad --

8 A You can write that.

9 Q Thank you. It is Muhammad who then introduces Jaara to
10 Nufal, correct?

11 A Yes, indeed.

12 Q And the money to buy the weapons, the explosive device
13 that they were going to use, came from Muhammad; isn't that
14 true?

15 A Also from Muhammad.

16 Q Now, then what happened was Muhammad and Nufal hung a
17 Hamas banner in Nufal's room; isn't that right?

18 A I don't know if one of them hung it up, two of them hung
19 it up. I'm familiar with the picture of the banner in their
20 house.

21 MR. INGERMAN: Okay. Let's pull up PX4045, Shawn,
22 if you could. And I think it's page 10 translation. 4045 is
23 the sentencing. I'm sorry. I meant the confession. 1035.
24 Defense Exhibit 1039. And page 12, please.

25 Q So this is Nufal's confession. That's in evidence.

Shaked - Cross- Ingerman

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1 MR. INGERMAN: And I would like to show that to the
2 jury, your Honor, please.

3 Q And what Nufal says is we hung a Hamas banner in my room,
4 and I gave Ali Jaara the charge to hold. Do you see that?

5 A Yes, I see it.

6 Q Okay. And then it says Muhammad and I also prepared an
7 explosive belt, with nothing but wires and pipe bombs, right?

8 A Yes.

9 Q And then Nufal says we filmed Jaara with the explosive
10 belt, the charge and a black toy plastic pistol. Do you see
11 that?

12 A Yes.

13 Q And that's the film that you say you saw, right?

14 A I'm familiar with that picture.

15 Q Okay. And the picture that is actually on the Hamas
16 claim of responsibility is taken at the time that Nufal and
17 Muhammad put a Hamas flag up in front of Jaara before
18 anything -- any attackers?

19 THE INTERPRETER: In front of Jaara?

20 MR. INGERMAN: Behind Jaara. I'm sorry.

21 THE WITNESS: Yes.

22 Q Now, you don't have any idea, do you, Mr. Shaked, how
23 many hours or days that Jaara spent with Nufal, do you?

24 A I can assume that he spent at least a few hours.

25 Q But you don't know, do you?

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1 A No.

2 Q Okay. And then what it says is, however, a few days went
3 by, and we did not send him because I, Nufal, did not know
4 exactly how to perform a suicide attack. That's what Nufal
5 said in his confession, right?

6 A Indeed, this is what it said here, yes.

7 Q And what happens next is really important, Mr. Shaked,
8 because what happens next is Jaara goes and talks to Tanseem
9 Fatah. Do you see that?

10 A Yes, but some time elapsed between the time they were
11 together and until he went to the Tanseem. A few days had
12 past. Certain actions were taken. There were preparation.
13 He didn't go straight from one place to the other. In the
14 meanwhile, he did try to do something, to carry out something,
15 and only there did he go to speak with the Tanseem.

16 Q Tanseem Fatah is al-Aqsa Martyrs Brigade right?

17 A That's right.

18 Q The same group that his friend Muhammed Nashash belonged
19 to, right?

20 A Yes.

21 Q Now, it goes on to say Jaara told me he spoke to Fatah,
22 and that they, Fatah, will send him to a suicide attack. Do
23 you see that?

24 A I see this in this testimony, but we need to remember
25 exactly the chronology of this confession. It doesn't mention

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1 any days or anything, but rather this is a story, a narrative,
2 a narrative provided by my fall, and under this context, he
3 wanted to kind of make it easier for himself to try to get a
4 lesser punishment as possible. This is why it was easy for
5 him to explain it this way, but we need to remember the
6 reality as it occurred. So, indeed, there was the issue that
7 he did want to carry out this attack, and only after that
8 attempt had failed, only then he approached Fatah in order to
9 try to do it another time in a different way.

10 Q And he approached Fatah, the al-Aqsa Martyrs Brigade, to
11 do a different attack in a different way, right?

12 A He wanted to do it in the same way, through a suicide
13 bombing, as it was customary in those days, to board a bus and
14 then explode yourself.

15 Q We can agree, though, that when Jaara went out the first
16 time to commit his attack, Bus 19 was not his target, was it?

17 A Bus Number 19 wasn't the defined target, not in the first
18 time and not at the second time.

19 Q Okay. So Bus 19 is not the target the first time around,
20 when Jaara thinks about committing a suicide attack, but the
21 second time around he's successful, correct?

22 A Yes, he did manage to board the first bus, which stopped
23 at the station, which he managed to reach, the bus stop. But
24 it happened to be Bus Number 19. It could have been just the
25 same as number nine or bus number seven.

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1 Q But it wasn't, it was Bus Number 19, right.

2 A Yes. Regretfully, he did manage to board Bus Number 19,
3 which was packed with passengers.

4 Q Now, let's see if there are a couple things we can agree
5 on, focussing on the attack that Jaara actually carried out on
6 Bus 19. Can we agree that the al-Aqsa Martyrs Brigade
7 operatives are the ones who actually constructed the explosive
8 device that Jaara used to blow up Bus 19?

9 A Yes, we do agree on that.

10 Q Okay. And we also agree that whatever explosive device
11 Nufal, from Hamas, and Muhammad made for him for the first
12 attack that didn't occur was not the explosive device that was
13 used on Bus 19?

14 A That's right.

15 Q And it was an al-Aqsa Martyrs Brigade member who drove
16 Jaara to the site of the bombing, right?

17 A That is, indeed, true.

18 Q Okay. Now, I want to talk a little bit about the video
19 picture that was taken of Jaara with the Hamas flag behind it.
20 Can we agree that -- actually, it says it in here, in the
21 confession, in Plaintiffs' exhibit -- Defense Exhibit 1039 --
22 if we can high light that Shawn.

23 It says I gave the pictures of Jaara -- this is
24 Nufal talking. I gave the pictures of Jaara with the charges,
25 the pistol, and the Hamas banners to the Bethlehem television

Shaked - Cross- Ingerman

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1 station, and they reported that Hamas claimed responsibility
2 for the suicide attack.

3 Do you see that?

4 A Yes, I can see that.

5 Q And then after Nufal gave the video to the Bethlehem
6 television station, claiming that Hamas had perpetrated the
7 attack on Bus 19, Fatah then says, but, actually, Fatah was
8 responsible for the attack in Nala (phonetic); isn't that what
9 he says?

10 A Indeed, this is what he says in this document.

11 Q Okay. Now, after this horrible attack on Bus 19, there
12 are actually four al-Aqsa Martyrs Brigade members that are
13 convicted for this attack; isn't that true?

14 A Yes.

15 Q Let me show you --

16 MR. INGERMAN: Just the witness, slide six, Shawn.

17 Q Now, slide six identifies the four al-Aqsa Martyrs
18 Brigade members that were convicted in the Bus 19 attack;
19 isn't that right?

20 A Is it right. I'm not -- I'm not saying otherwise, and I
21 did not say the al-Aqsa Martyrs Brigade had no responsibility
22 over this attack.

23 Q Let me try my question again. Maybe it got lost in
24 translation. Are -- these four folks listed on the left-hand
25 side, are they all al-Aqsa Martyrs Brigades operative

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1 convicted in connection with the Bus 19 attack?

2 A Yes, they were convicted.

3 MR. INGERMAN: Your Honor, permission to show this
4 to the jury. I've shown it to Mr. Turner.

5 MR. TURNER: No objection.

6 THE COURT: That's fine.

7 Q Now, we've already talked about Muhammad Nashash, Abde
8 Madah (phonetic) was an al-Aqsa Martyrs Brigade operative who
9 was convicted for preparing the explosive device used on the
10 Bus 19 bombing, right?

11 A Indeed so.

12 THE COURT: Mr. Ingerman, do you have a lot more on
13 this line, about this attack, I mean?

14 MR. INGERMAN: No, I think I'm pretty close to being
15 finished.

16 THE COURT: Okay. Then go ahead.

17 Q Now, you also mentioned in connection with Bus 19 that
18 you had viewed Jaara's will, correct?

19 A Yes.

20 MR. INGERMAN: If we may show the witness only
21 Defense Exhibit 1042.

22 Q Do you recognize this to be Jaara's will that you viewed
23 in connection with your work in this case?

24 A Yes, he reads a few words in Arabic and says this is
25 indeed the will.

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1 Q Okay. And at the bottom of the will, Jaara says, does he
2 not, that he's part of the al-Aqsa Martyrs troops?

3 A Okay. Simply need to read this paragraph, and it's
4 handwritten, and the focus of these slides is not very good.

5 Q Please, if it's easier, I can put the certified English
6 translation up for you.

7 A If it's bigger, if it's easier to read, then of course.

8 MR. INGERMAN: Sure. Shawn, can we do that, please?
9 And if we can blow that up for Mr. Shaked so he can read it
10 more clearly.

11 Q How's that?

12 A Now, I can read it. Thank you. This is the will
13 prepared by the al-Aqsa Martyrs Brigade before Jaara went out
14 to perpetrate the attack on Bus Number 19.

15 Q And it says that Jaara is part of the al-Aqsa Martyrs
16 Brigade, correct?

17 A This will does say that Jaara is a member of the al-Aqsa
18 Martyrs Brigade.

19 MR. INGERMAN: Your Honor, I move in Defense
20 Exhibit 1042.

21 MR. TURNER: No objection.

22 THE COURT: It is received.

23 (Defense Exhibit 1042 was received in evidence.)

24 Q Just to wrap this up, I hope, Mr. Shaked, am I right that
25 in your expert report that you wrote, you claimed Fatah

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1 eventually made a clear withdrawal from responsibility for the
2 Bus 19 bombing and denied any responsibility for it? Didn't
3 you say that in your report?

4 A Indeed, following the very fierce debate between Fatah
5 and Hamas regarding the responsibility, indeed Fatah
6 ultimately did withdraw their responsibility for the attack.
7 Hamas demanded of Fatah to cancel and withdraw their claim of
8 responsibility. Therefore, within the year after the attack,
9 Fatah, under pressure from Hamas, did withdraw its
10 responsibility for the attack. I did not say that the al-Aqsa
11 Martyrs Brigade do not have responsibility for the attack;
12 they bear responsibility just as Hamas does. Both of them are
13 responsible for this attack, and this is what I was trying to
14 explain. I was not trying to avoid the fact that al-Aqsa
15 Martyrs Brigade also bore responsibility for the perpetration
16 of this attack.

17 I'd like to add one last word. We need to remember
18 that the suicide bomber, in this case it was Ali Jaara, is not
19 an educated person. He's not a special person. All he is, is
20 a pawn in the hands of the organizations. That's what he is.
21 His position, his role, is merely to push the button. He is
22 just a simple pawn in their hands.

23 MR. INGERMAN: Your Honor, I move to strike.

24 THE COURT: Hang on one second. I'll grant the
25 motion and strike that last statement. Plaintiffs' counsel

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1 can inquire on redirect if they want.

2 Are you done in this area?

3 MR. INGERMAN: Almost.

4 THE COURT: You said that before. Let me see
5 counsel at sidebar.

6 (Sidebar outside the presence of the jury.)

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Sidebar

1299

1 (Sidebar)

2 THE COURT: Mr. Ingerman, that was really
3 inefficient. All right? Remember the witness' story that he
4 started out with on direct was that this was what he called a
5 joint operation? There was no controversy that Fatah al-Aqsa
6 Martyrs Brigade wasn't the ones who actually triggered the
7 explosion. He said that, and you spent the last 25 minutes
8 getting him to say that again. You achieved one thing, which
9 was to get him to move one of the people on his chart into
10 al-Aqsa Martyrs Brigade, and that's fine. But, you know, this
11 could have been done in three questions.

12 The questions you have that said we agree that
13 al-Aqsa Martyrs Brigade supplied the belt, they put him up to
14 it, you could have done that in literally three minutes. I'm
15 going to ask you to move on and go to something else, because
16 I think the jury understands what's happened, and you've
17 scored all the points you can on cross in this area.

18 MR. INGERMAN: Your Honor, he specifically testified
19 it was not a joint operation.

20 THE COURT: No, he said it was not a shared
21 operation, he said it was a joint operation. I listened to
22 that very carefully. There is no contradiction between what
23 was brought out in the last 25 minutes and what the witness
24 said on direct, other than the one member that he attributed
25 to one fax being moved to the other fax, so, please, let's not

Sidebar

1300

1 beat a horse to death.

2 MR. INGERMAN: I disagree, your Honor, but I have
3 one more exhibit that I think is important to show the
4 witness, and then I will move on.

5 THE COURT: Okay. But, then, please don't do this
6 again with any other areas. Okay? This was just really a
7 large amount of time that could have been done -- it's an
8 important point. I'm not saying you shouldn't have done it,
9 but could have been done in a lot more efficient way. Please
10 try to do that in the future.

11 (Sidebar concluded.)

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Shaked - Cross - Ingerman

1301

1 (In the presence of the jury.)

2 MR. INGERMAN: May I proceed, your Honor?

3 THE COURT: You may.

4 Q The last thing on this attack, Bus 19, Mr. Shaked, I want
5 to ask you about, because Mr. Turner asked you on direct
6 whether or not there was an Israeli Security Agency statement
7 about Bus 19, but we didn't show it. And since he had showed
8 you a number of Israeli Security Agency reports in connection
9 with some of the other attacks, I wanted to show to you the
10 one from the very same exhibit that the Plaintiffs were to
11 show you.

12 MR. INGERMAN: Shawn -- and if this is the Israeli
13 Security Agency report just for -- it's in evidence.

14 So, your Honor, may I show it to the jury?

15 THE COURT: You may.

16 Q This is the Israeli Security Agency report Mr. Turner
17 showed you over and over again, in connection with some of the
18 other attacks. And I was curious that you didn't mention this
19 or wasn't shown to the jury on direct, because there is an
20 excerpt in here for the Bus 19 bombing; you knew that, right?

21 A I was not trying to evade stating that fact, that the 19
22 bus bombing was carried out by the al-Aqsa Martyrs Brigade,
23 but -- and I say again a very big but -- it was just a hair's
24 breath away from Hamas actually having carried it out.

25 Therefore, the responsibility for the bombing is shared, it's

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1302

1 joint, for both organizations. I tried to explain that in my
2 expert opinion. And without evading any responsibility,
3 al-Aqsa Martyrs Brigade ultimately was the one to carry out
4 that attack.

5 Q Mr. Shaked, the Israeli Security Agency says it was the
6 al-Aqsa Martyrs Brigade, and there's no mention of Hamas
7 anywhere in there, is it?

8 A I mentioned earlier in my testimony that I do not base
9 myself only on one report or a single fact. I look at the
10 continuum of the entire picture that is created, and in this
11 case I had to mention subject of Hamas. Moreover, the Israeli
12 court that judge these people from Hamas, they also discuss
13 this matter, and they stated that Hamas also had
14 responsibility for this attack. They said that it was Hamas
15 that actually loaded the bullet into the barrel of the gun and
16 that the trigger was pulled by a member of al-Aqsa Martyr
17 Brigade. There's no evasion. I'm stating the truth here;
18 al-Aqsa Martyrs Brigade carried out this attack, but Hamas
19 also bears responsibility for this attack.

20 MR. INGERMAN: Your Honor, I move to strike.

21 THE COURT: No, I'm going to overrule the objection
22 and direct you to move on to something else.

23 Q Now, let's talk about the Bus Number 2 bombing for a
24 moment. Now, you were aware, were you not, Mr. Shaked, that
25 Reuters -- by the way, Bus Number 2 bombing occurred on

Shaked - Cross - Ingerman

1303

1 August 19, 2003, right?

2 A That is correct.

3 Q Do you know that Reuters is a news agency that puts out
4 news reports?

5 A Of course.

6 Q And the day after the Bus Number 2 bombing, you knew, did
7 you not, that Reuters reported that Islamist Jihad from the
8 al-Aqsa Brigade had claimed responsibility for the Bus Number
9 2 bombing?

10 A That is correct.

11 Q And you also knew that on August 20th, the Israeli
12 newspaper, Harres (phonetic), reported that Islamist Jihad had
13 claimed responsibility for this attack, Bus Number 2, right?

14 A Yes, indeed, that's what it said.

15 Q And you also knew, did you not, that Rantiqui, one of the
16 Hamas leaders, denied that Hamas was responsible for or
17 involved in any way with Bus Number 2 bomb; is that right?

18 A Yes.

19 Q And you also know, do you not, that the Guardian, an
20 English newspaper, also reported that Islamist Jihad claimed
21 responsibility for this attack?

22 A Yes, and I'm very happy that the distinguished attorney
23 has presented all this material, all these things that were
24 made public or published one day, perhaps two, at most, after
25 the attack, after the attack on Bus Number 2. Because this

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1304

1 was a very, very sensitive time for Hamas. There was a cease
2 fire at the time between Israel and Hamas, which Hamas had
3 broken, and so it didn't want to take -- it didn't want to
4 make official claim of responsibility, and it was happy to let
5 Islamic Jihad take responsibility, because it cleared Hamas of
6 responsibility. And Islamist Jihad, perhaps, took advantage
7 of the fact, because it was not part of the cease fire at that
8 time, and I don't deny those facts.

9 As I said, my test of the reality is not one day or
10 one hour after the attack, but rather through a perspective of
11 time. And as it turned out, Rael Al Misk, the one whose will
12 I saw, and I personally visited in his home and spoke to his
13 wife, he was the one who carried out the terror attack and not
14 the Islamist Jihad or any of the other organizations that may
15 have claimed responsibility a day or two after it was carried
16 out.

17 Q I understand that's your opinion, but I'm asking you a
18 very simple question. Do you know -- you know, don't you,
19 that also on August 20th, 2003, the New York Daily News, here
20 in New York, also reported that the Islamist Jihad had claimed
21 responsibility, don't you?

22 A I believe the distinguished attorney that that is what
23 was, indeed, reported in the newspaper the next day. But if
24 we look at the difference in time between -- in the hours
25 between the time zones, between United States and Israel,

Shaked - Cross - Ingerman

1305

1 we'll see that that is, in fact, just a few hours after the
2 attack was carried out. That's when it was reported, so they
3 didn't yet have any perspective in time to see what the real
4 situation was.

5 Q Okay. Let --

6 A Only afterwards was it discovered who actually carried it
7 out.

8 THE COURT: Let me say this, I'm going to ask the
9 witness to confine himself a little more closely to the
10 question being asked of him. I know he has more to say about
11 a lot of the questions, but it's up to the Plaintiffs' lawyers
12 to bring out that information when they examine him again.

13 THE WITNESS: Thank you very much, your Honor. I'll
14 do that.

15 THE COURT: Okay.

16 MR. INGERMAN: Thank you.

17 THE COURT: Next question.

18 Q Now, with respect to the Dolphinarium attack that
19 occurred on June 1st, 2001, we agree that Hamas did not claim
20 responsibility until three days after that attack, right?

21 A I'll accept what you say. I don't recall if it was
22 exactly a day or two, but I accept that that's indeed the
23 situation.

24 Q When you had your sworn testimony taken at your
25 deposition, you did not, at that time, remember whether there

Shaked - Cross - Ingerman

1306

1 were any other claims of responsibility for the Dolphinarium;
2 isn't that right?

3 A I'll try to keep my answer brief, as the judge instructed
4 me. In my expert opinion, I did not relate to every single
5 claim of responsibility, especially those I did not consider
6 significant, or which were incorrect, or were no more than
7 boasting and self-glorification. In some cases, I did relate
8 to those claims of responsibility, when I thought they were
9 significant.

10 Q Sir, that's not my question. My question is, during your
11 deposition, your sworn statement that -- your sworn testimony
12 you gave in this case, isn't it true that you said, at that
13 time, you were not aware of any competing claims for the
14 Dolphinarium attack?

15 A That is, indeed, correct.

16 Q And you know now, don't you, that there were alternative
17 claims of responsibility for the Dolphinarium attack.

18 A Yes, I do indeed know that, and I hear it from you as
19 well.

20 Q On June 1st, the day of the attack, you were aware, are
21 you not, that CNN reported that Islamist Jihad claimed
22 responsibility for the Dolphinarium attack?

23 A Yes, I know that.

24 Q And on that same day, the Israeli Ministry of Foreign
25 Affairs also reported that the Palestinian Hezbollah claimed

Shaked - Cross - Ingerman

1307

1 responsibility for the attack, right?

2 A Yes, the Ministry of Foreign Affairs reported just a few
3 hours after the attack Hezbollah had taken responsibility for
4 the attack.

5 Q On the next day, June 2nd, 2001, the British
6 Broadcasting -- the BBC, the British Broadcasting Company,
7 reported also that Islamist Jihad claimed responsibility,
8 correct?

9 A That's correct.

10 Q And on June 3rd, two days later, the Jerusalem Post --
11 I'm sorry. Strike that.

12 Now, are you also aware, Mr. Shaked, that Fatah
13 actually sent money to the bomber's family?

14 A Yes, I know that.

15 Q Okay. And are you aware, sir, that as recently as June
16 of this year, the Jerusalem Post reported that the Islamist
17 Jihad claimed responsibility for the attack?

18 A Wow, I didn't know that.

19 Q Okay. So we have four different claims with respect to
20 the Dolphinarium bombing, right?

21 A What can you do? Reporters sometimes get it wrong, too.

22 Q And you're a reporter, right?

23 A I've also made mistakes in my life as a journalist.

24 Q Haven't we all? So let's talk about the Sbarro bombing
25 for a moment. That happened on August 9th, 2001, in

Shaked - Cross - Ingerman

1308

1 Jerusalem, right?

2 A Yes.

3 Q And you're aware that on that same day the Israeli
4 Ministry of Foreign Affairs reported that Islamist Jihad
5 claimed responsibility for the attack, right?

6 A Yes, I'm aware of the fact that two hours after the
7 attack occurred the MFA rushed to say that.

8 Q And also on August 9th, 2001, the British newspaper the
9 Guardian also reported that Islamist Jihad claimed
10 responsibility for the Sbarro bombing, right?

11 A I do know that.

12 Q And you also know that on August 9th, 2001, our New York
13 Daily News, here in New York, also reported that the Islamist
14 Jihad claimed responsibility for the Sbarro bombing?

15 A Yes.

16 Q And you also know that the British newspaper the
17 Telegraph also reported, on August 9th, 2001, that the
18 Islamist Jihad had claimed responsibility for the Sbarro
19 bombing?

20 A Yes.

21 Q And on the next day, August 10th, 2001, the Denver Post
22 reported that Islamist Jihad claimed responsibility, correct?

23 A Yes.

24 Q And about six months later, on March 22nd, 2002, there
25 was a Daily News report that reported that the al-Aqsa Martyrs

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1309

1 Brigade of Fatah took credit for the attack for the Sbarro
2 bombing; isn't that right?

3 A Regretfully, the Daily News did not follow after the
4 occurrences in Israel, and did not follow up the investigation
5 regarding the Sbarro attack and also regarding the
6 responsibility. As for the other newspapers, these were
7 claims that were published three or four hours after the
8 attack occurred that were provided by various anonymous phone
9 calls. This is what had happened. And the truth is that the
10 official claim by the Hamas was actually issued a few hours
11 later after the attack, on that very same evening.

12 Q The Daily News report -- I'm sorry.

13 A And by the time the report appeared six months later, the
14 people had been arrested, the members of the cell, and it was
15 pretty clear who perpetrated this attack. It was hardly
16 necessary to have any further investigations, and I am sorry
17 for mistakes made by my fellow journalists.

18 Q Now, let's talk about the December 1, 2001, Ben Yehuda
19 bombing. Now this involved two suicide bombers, and one car
20 explosion, as you've testified, right?

21 A Right.

22 Q Now, I want to focus on the car bombing for a minute. We
23 agreed, do we not, that the car bomb that exploded belonged to
24 an operative of Islamist Jihad?

25 A Indeed, that's true.

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1310

1 Q And, interestingly, when you were asked in your
2 deposition, your sworn testimony about this, about the owner
3 of the car, you said that there's not a person in the
4 Palestinian streets that is not recognized with an
5 organization. Do you remember saying that?

6 A I did say that, and I do not retract from that.

7 Q What organizations are you talking about?

8 A I'm talking about all organizations, the ones that are
9 members of the PLO, and the ones that are not members of the
10 PLO. And if you would like me to, I can list the names of all
11 these organizations, and I am referring to the Palestinian
12 organizations.

13 Q Is it your opinion, Mr. Shaked, that all Palestinians in
14 the streets are members of some sort of terrorist
15 organization?

16 A I'm not saying that all these organizations are terrorist
17 organizations. I clearly said that these were Palestinian
18 organizations.

19 Q The Palestinian territories are occupied territories by
20 the Israeli military, are they not?

21 A Yes, that's right.

22 Q And based on -- I think you testified on direct that
23 based on your work, you've been able to understand the
24 Palestinian society. Is it your understanding that the
25 Palestinians consider the Israeli army an enemy?

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1 MR. TURNER: Your Honor, I object to this on the
2 basis of relevance.

3 THE COURT: Sustained.

4 MR. INGERMAN: May we have a brief sidebar,
5 your Honor?

6 THE COURT: Sure.

7 (Sidebar heard outside the presence of the jury.)
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Sidebar

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(Sidebar)

MR. INGERMAN: Your Honor, we've had lots of testimony and argument about the bank's annual reports, talking about the occupied enemy, and I think he's testified on direct that he understands -- understood the Palestinian society as part of his work, and I think I'm entitled to inquire into that.

THE COURT: You have him say that, in fact, certain regions are occupied territories. That ties it into the report. The rest of it runs an undue risk of having us try the Israeli Palestinian conflict, and I'm, therefore, excluding the question and this line of inquiry on Rule 403.

(Sidebar concluded.)

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1313

1 (In the presence of the jury.)

2 Q Mr. Shaked --

3 MR. INGERMAN: May I proceed, your Honor?

4 THE COURT: You may.

5 Q The occupiers of the Palestinian territories are the
6 Israeli Army, right?

7 MR. TURNER: Your Honor, again, I object.

8 MR. INGERMAN: That's my last question.

9 THE COURT: I'll allow that one question.

10 THE WITNESS: That's correct.

11 Q Now, we were talking about the December 1st, 2001,
12 Ben Yehuda attack, and we had already established that the
13 owner of the car bomb was Islamist Jihad. You're aware, are
14 you not, Mr. Shaked, on December 2nd, 2001, the day after the
15 attack, the British Broadcasting Company reported a claim by
16 Islamist Jihad for Ben Yehuda?

17 A Yes, I did know that.

18 Q And you also knew that our New York Daily News reported,
19 on December 2nd, 2001, also that Islamist Jihad had claimed
20 responsibility for the Ben Yehuda attack?

21 A Yes.

22 Q Now, I want to move to the September 19, 2002, Bus Number
23 4 attack, and I think you mentioned this on direct,
24 Mr. Shaked, but Hamas' claim of responsibility for the Bus
25 Number 4 attack came six years later; isn't that true?

Shaked - Cross - Ingerman

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1 A Indeed, that's true.

2 Q And at your deposition, when your sworn testimony was
3 taken, you couldn't remember any other claims of
4 responsibility for the Bus Number 4 attack; isn't that right?

5 A Could be. I'm also a human being.

6 Q But you know now, do you not, sir, that the next day,
7 September 20th, 2002, CNN reported that Islamist Jihad had
8 claimed responsibility for Bus Number 3?

9 A That's indeed true.

10 Q Reuters, the news organization, reported the same thing,
11 right?

12 A Yes.

13 Q Now, are you aware of a publication called the Friends of
14 the Israel Gospel Ministry?

15 A I've learned about it because of the attack.

16 Q Okay. And they, too, reported, did they not, on
17 September 19th, 2002, that although Hamas had first claimed
18 responsibility, the Islamist Jihad later claimed
19 responsibility for the Bus 4 attack?

20 A Yes.

21 Q Now, let's move to the Mike's Place attack, if we could.
22 And that occurred on April 30th, 2003. Am I correct with
23 respect to Mike's Place that Hamas did not take responsibility
24 for the attack until March of 2004, almost a year later?

25 A That's right.

Shaked - Cross - Ingerman

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1 Q And I think you said this on direct, but you agree with
2 me that the attack that occurred at Mike's Place was totally
3 different than the other 23 attacks that we're here about in
4 this trial?

5 A I do agree.

6 Q And the two attackers in the Mike's Place attack were
7 British citizens who had trained with Al-Qaeda, right?

8 A Yes, they were British citizens, trained by Al-Qaeda.

9 Q And after the Mike's Place attack, Israeli Prime
10 Minister's Office announced that Hamas decided not to take
11 responsibility for this attack; isn't that right?

12 A That's right.

13 Q And later that day, CNN reported that the al-Aqsa Martyrs
14 Brigade, the Fatah group, had claimed responsibility for
15 Mike's Place, right?

16 A That's right.

17 Q And on April 30th, 2003, the United States Government
18 agency International Institute for Counterterrorism indicated
19 Fatah had claimed responsibility for Mike's Place. You knew
20 that, right?

21 A That's right.

22 Q And you also know that on the day of the attack, the
23 Israeli Ministry of Foreign Affairs also said that al-Aqsa
24 Martyrs Brigades had claimed responsibility for the attack?

25 A Indeed so, and the list is long, and the distinguished

Shaked - Cross - Ingerman

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1 lawyer can also add my name to this list, because I had also
2 made a mistake, and I also reported and it was a mistaken
3 report back then, regarding the attack at Mike's Place. And
4 there were various conjectures and theories regarding Al-Qaeda
5 or Hezbollah and their involvement.

6 Q Am I the distinguished lawyer?

7 THE COURT: You are.

8 MR. INGERMAN: Thank you, your Honor.

9 THE WITNESS: Yes, indeed, you are a distinguished
10 lawyer.

11 THE COURT: Don't tell us that's the first time
12 everyone's said that.

13 MR. INGERMAN: Am I under oath?

14 Q Now, Mr. Shaked, we can also agree that the Washington
15 Post and Time Magazine also reported that Fatah and Hezbollah
16 claimed responsibility for these attacks on April 30th, 2003,
17 the Mike's Place?

18 A Yes.

19 Q Now, I want to show you again, with respect to Mike's
20 Place, the slide that Mr. Turner showed you regarding the ISA
21 report for the Mike's Place attack. And it was --

22 MR. TURNER: 3811.

23 MR. INGERMAN: The slide number? Slide four.

24 MR. TURNER: I thought you were talking about the
25 exhibit.

Shaked - Cross - Ingerman

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1 MR. INGERMAN: The slide to use. Thank you.

2 May I show that to the jury, your Honor?

3 THE COURT: Yes.

4 Q Now, this is the excerpt from the ISA report that you
5 showed to the jury from Mike's Place, and I was interested to
6 see two things. At the bottom -- first of all, in the middle,
7 it says is the Hamas organization claimed responsibility for
8 the attack, right?

9 A Indeed it does say so.

10 Q And then at the end of the report, it says the terrorist
11 pair was assisted by a number of foreign left-wing operatives
12 staying in the area. Do you see that?

13 A I would like to explain regarding British citizens who
14 enter Israel through the Allen Bee (phonetic) Bridge, who
15 cross into the territories through Jordan, and they are
16 considered suspect. And usually along with them there are
17 various NGOs, and left-wing organizations which operate within
18 the territories in order to receive coverage. And it is no
19 secret that these left-wing organizations don't really like
20 Israel. So for these two British citizens, it was quite
21 natural for them to receive help from other organizations,
22 such help as driving them or finding a place for them to stay.
23 But I don't think that these activists really knew what their
24 intention was, that it was to carry out a suicide bomb.

25 Q Who were the foreign left-wing operatives that helped the

Shaked - Cross - Ingerman

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1 two terrorists from Mike's Place?

2 A If I recall correctly, their name -- the name of the
3 organization is ISA. It is called International Solidarity
4 something, and this organization is active both in Gaza and
5 the West Bank. And these two British people received
6 assistance from them mainly in Gaza.

7 Q Now, the last thing I want to look at, with respect to
8 Mike's Place, Mr. Shaked, is the official -- what you claim to
9 be the official claim of responsibility by Hamas.

10 MR. INGERMAN: And Mr. Turner didn't put it up on
11 the screen. I believe it is in evidence -- just to make sure
12 on the right, Shawn, let's show just the witness PX3807, the
13 official claim of responsibility is that PX10 --

14 MR. TURNER: For Mike's Place, it's 3807.

15 MR. INGERMAN: 3807. Thank you. That's in
16 evidence, your Honor. May I show it to the jury?

17 THE COURT: You may, but you probably want the
18 English.

19 MR. INGERMAN: Arabic's not going to help me.

20 THE COURT: More importantly, it's not going to help
21 the jury.

22 Q So we go to the English part. The second paragraph,
23 Mr. Shaked, says, as the martyr Izz al-Din al-Qassam Brigade's
24 claimed joint responsibility with the al-Aqsa Martyrs
25 Brigades. Do you see that, Mr. Shaked?

Shaked - Cross - Ingerman

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1 A Yes, I do.

2 Q You did not tell the jury you believed this to be a joint
3 claim of responsibility with al-Aqsa Martyrs Brigade, did you?

4 A I suggest we look at the date of the claim of
5 responsibility by Hamas to understand why Hamas published
6 their claim of responsibility at that particular time,
7 together with the al-Aqsa Martyrs Brigade.

8 Q So is it your testimony that Hamas is not telling the
9 truth in this official communication, when it says that
10 there's a joint claim of responsibility with al-Aqsa Martyrs
11 Brigade?

12 A I'm testifying that it is true Hamas wrote it to kind of
13 dispel the clarity, the fog, as it were, and pressure being
14 excerpted on Hamas. They were in a very great state of
15 confusion after the terror attack, after a suicide bombing was
16 carried out by foreigners who were affiliated with Al-Qaeda,
17 and there was a great deal of anger at that time. And somehow
18 to dispel the confusion, that is what they tried to do. And
19 when I look at it with the perspective of time, and I look at
20 the fact that in March, afterwards, they published a full and
21 precise claim of responsibility, including the will by the two
22 suicide bombers and a very detailed report by Hamas, which was
23 reported by the whole world, including the BBC.

24 Q You said including the BBC?

25 A The BBC made a long, detailed documentary film about the

Shaked - Cross - Ingerman

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1 two suicide bombers and about the bombing at Mike's Place.

2 Q Let's talk about the September 4th --

3 THE COURT: Before you go on, let's take our
4 afternoon break.

5 MR. INGERMAN: Sure.

6 THE COURT: Ladies and gentlemen, we'll come back in
7 15 minutes. See you at 3:30. Remember, don't talk about the
8 case. See you soon.

9 (Outside the presence of the jury.)

10 THE COURT: How are you doing time wise.

11 MR. INGERMAN: Pretty good.

12 THE COURT: Can you be more specific? Not totally
13 specific. Just a little more.

14 MR. INGERMAN: Part of it depends on whether he says
15 yes, and then he says yes and 27 more sentences.

16 THE COURT: Yes, I do appreciate that. I'm trying
17 to help you there.

18 THE WITNESS: I'll try.

19 MR. INGERMAN: I appreciate that, too. If we come
20 back at 3:30, I'm hoping 4:00 o'clock, 4:15 at the latest.

21 THE COURT: Okay. Good. See you then.

22 (Recess in proceedings.)

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SHAKED - CROSS - INGERMAN

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1 THE COURT: Please bring in the jury.

2 (Jurors enter the courtroom.)

3 THE COURT: Be seated. Mr. Ingerman, you may
4 continue.

5 MR. INGERMAN: Thank you, your Honor.

6 BY MR. INGERMAN:

7 Q Mr. Shaked, I want to talk to you about the September
8 24th, 2004, Neve Dekalim attack. That was a mortar attack
9 on a neighborhood in the Gaza strip called Neve Dekalim?

10 A Yes.

11 Q And the attackers in that case escaped and were never
12 identified, right?

13 A That's indeed right.

14 Q And on the day of the attack, ABC News reported that
15 Islamic Jihad took responsibility for the attack; isn't that
16 right?

17 A Yes.

18 Q And the only thing that you cite for your opinion that
19 it was Hamas is the Hamas claim of responsibility on the Web
20 site, right?

21 A The claim of responsibility, as well as my professional
22 responsibility -- experience regarding everything that had
23 existed during that period with respect to mortars.

24 Q And what you said on your direct examination, because I
25 wrote it down here, was that Hamas is the only terrorist

SHAKED - CROSS - INGERMAN

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1 organization that was using mortars in Gaza at that time,
2 right?

3 A Yes. And I did add proper or standard mortars.

4 MR. INGERMAN: Okay. If we could put up for just
5 the witness, Sean, Defense Exhibit 1040.

6 BY MR. INGERMAN:

7 Q And Mr. Shaked, I'll represent to you that this is the
8 RAND report that we had looked at earlier that was
9 commissioned by the United States Department of Homeland
10 Security. And if we could look at page 42, Sean.

11 And this was a document that you said you had looked
12 at, Mr. Shaked. Isn't it true that the RAND Corporation
13 commissioned by the United States Department of Homeland
14 Security concluded that in September of '04, members of
15 al-Aqsa Martyrs Brigade fired two mortars on a settlement in
16 Gaza?

17 A September is a long month. I guess they probably fired
18 even more than that.

19 Q Al-Aqsa Martyrs Brigade, you're talking about?

20 A Yes, the al-Aqsa Martyrs Brigade. During that period,
21 many mortars were fired.

22 MR. INGERMAN: Okay. Now, we can take that down,
23 Sean. Thanks.

24 BY MR. INGERMAN:

25 Q Now, throughout your testimony, Mr. Shaked, you

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1 testified on a number of occasions in connection with a
2 number of attacks that part of your support for your opinion
3 are Israeli court documents, right?

4 A Indeed, that's right.

5 Q And you testified, did you not, that these court
6 documents are the ones that you find most reliable and most
7 significant?

8 A Let me repeat once again what I've already said at the
9 beginning of my testimony. I find all documents to be
10 important, but what's also very important is the
11 cross-referencing, the corroboration, the verification. And
12 that gives me the general picture. And this is the picture
13 which I provide.

14 I don't think that any one document is more important
15 than another one. This is not mathematics we're talking
16 about. I don't necessarily have a situation always -- I
17 don't necessarily have a situation that two plus two are
18 always four. I always need to weigh in what's more
19 important, what's less important.

20 Q Okay. So you do rely, though, on Israeli court
21 documents, right?

22 A Yes.

23 Q And in Israel, it's Israeli judges that determine who
24 is responsible ultimately for a particular attack; isn't
25 that right?

SHAKED - CROSS - INGERMAN

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1 A Yes. This is the judicial system.

2 Q And in the West Bank and Gaza, that role is fulfilled
3 by military judges in military courts; isn't that right?

4 A That is, indeed, true.

5 Q Now, you know, do you not, that Colonel Netanel Benishu
6 is the president of the military courts.

7 You know that name?

8 A During which period?

9 Q Today.

10 A I am not very much up to date at what's been going on
11 in the courts during this past year due to personal
12 circumstances.

13 Q Okay. Let's talk about during the 2000 and 2004 time
14 frame, okay?

15 You know, do you not, that there were claims that the
16 military prosecutions in the military courts don't meet the
17 legal requirements to provide Palestinian defendants with a
18 fair trial?

19 A I am no legal expert. And if, indeed, there is some
20 criticism, I cannot comment on it because I'm no expert on
21 various laws or their rules of prosecution in the
22 territories.

23 Q Did you know that the conviction rate in Israeli
24 military courts --

25 MR. TURNER: Your Honor, excuse me. I object to

SHAKED - CROSS - INGERMAN

1325

1 this on the basis of relevance.

2 THE COURT: Sustained.

3 MR. INGERMAN: Your Honor, may we have a sidebar?

4 THE COURT: Sure.

5 (Sidebar conference.)

6 (Continued on the next page.)

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SIDEBAR CONFERENCE

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1 MR. INGERMAN: Your Honor, plaintiffs have
2 introduced verdict and sentencings one after another, and
3 we're entitled to impeach the credibility of those through
4 this witness who relied on them.

5 THE COURT: Yes, but you don't have anything to
6 say that they're not reliable. You're asking him a
7 question, and he hasn't said the process is good. He said
8 he's relying on those.

9 Are you going to call an expert who is going to
10 say they are suspect?

11 MR. INGERMAN: No. But I can cite to a document
12 and see if he's seen it.

13 THE COURT: Is it a learned treatise?

14 MR. INGERMAN: One is a U.N. report. I mean, I
15 think I'm entitled to inquire what he looked at with respect
16 to the, you know --

17 THE COURT: You are. And you're even entitled to
18 make a case that what he looked at is not reliable. What
19 you're not entitled to do is introduce extraneous evidence
20 through this witness to show that what he looked at is not
21 reliable, evidence that he has not necessarily seen or
22 considered in forming his opinion. I think your point is
23 that he didn't consider if these courts are reliable or not.
24 That's an argument point.

25 If you want to introduce evidence in your case

SIDEBAR CONFERENCE

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1 that's properly listed to that effect, you can do that as
2 part of an expert coming up with a contrary opinion. But I
3 think it would be a complete sideshow to start grilling him
4 on the adequacy of the legal process in the foreign courts.
5 So I'm not going to allow that.

6 MR. TURNER: I just want to make sure for the
7 record that we don't go back and have a question framed in
8 such a way that interjects all of this into the process.

9 THE COURT: Well, that's what I'm saying. I don't
10 think there's a basis for the questioning, but I can't
11 prejudge any question until I hear it.

12 (End sidebar conference.)

13 (Continued on the next page.)
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SHAKED - CROSS - INGERMAN

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1 BY MR. INGERMAN:

2 Q Mr. Shaked, did you know that there was a United
3 Nations report --

4 MR. TURNER: Objection.

5 THE COURT: Sustained.

6 MR. INGERMAN: Okay.

7 BY MR. INGERMAN:

8 Q Now, one of the things that you relied on in connection
9 with your opinion as to the Park Hotel bombing was the
10 confession of someone by the name of al-Sayed, right?

11 A Abbas al-Sayed, yes.

12 Q Now, al-Sayed claims that he was tortured before he
13 gave his confession, doesn't he?

14 A I do recall that, and I know of that.

15 Q Now, I want to ask you a question, Mr. Shaked, about
16 something you said in your direct testimony.

17 MR. INGERMAN: And Sean, if we can pull up -- bear
18 with me here a moment -- page 988 of Mr. Shaked's trial
19 testimony, lines 12 through 14.

20 Your Honor, may I show this to the jury?

21 THE COURT: Yes.

22 BY MR. INGERMAN:

23 Q Now, Mr. Shaked, when you were testifying on direct
24 examination, you said to the ladies and gentlemen of the
25 jury, to recruit means to actually win the trust of the

SHAKED - CROSS - INGERMAN

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1 people and then to handle them as agents, and that is in
2 their society in enemy territory, as my commanders have
3 instructed.

4 Do you see that?

5 A Yes, I do see that.

6 Q And by "enemy territory," you went the West Bank and
7 Gaza, right?

8 A Yes.

9 Q Now --

10 MR. INGERMAN: Thank you, Sean. You can take that
11 down.

12 Your Honor, if I may approach the witness to hand
13 him what was marked as Plaintiffs' 4790, which was the
14 charts.

15 THE COURT: You can do that or you can show it on
16 the projector right there.

17 MR. INGERMAN: I'm going to show him something
18 else on the projector so I'd like him to have it.

19 THE COURT: Okay.

20 BY MR. INGERMAN:

21 Q Now, Mr. Shaked, I've handed you the summary charts
22 that you've prepared in connection with these attacks. And
23 I want to ask you a few questions about them.

24 A Go ahead.

25 Q Am I right that for the following attacks, you do not

SHAKED - CROSS - INGERMAN

1330

1 have any type of Hamas conviction: The March 28, 2001, gas
2 station bombing near Kfar Saba, right?

3 THE INTERPRETER: Can I repeat the question?

4 MR. INGERMAN: Sure. Can we put up slide 3, Sean.

5 A Now, I understand. The attack at Neve Yamin.

6 BY MR. INGERMAN:

7 Q Looking at the summary chart that you prepared, and
8 looking at the screen in front of you, which is slide 3.

9 Do you agree with me that you do not have Hamas
10 convictions for any of the seven attacks that are shown on
11 slide 3 on the screen in front of you?

12 A I can tell you in general that there were convictions
13 that I didn't always include, and the slides do not always
14 contain all of these. And actually, I can tell you about
15 some of these that there were convictions, but I didn't
16 include them in the report for various reasons.

17 For example, in Neve Yamin, in the Dolphinarium and
18 Emmanuel, there were convictions which I didn't include. In
19 Atzmona, there weren't any convictions.

20 Q Sir, looking at the summary chart that you prepared
21 that has been put in evidence to provide to the jury, there
22 is a column that says "Hamas Convictions."

23 Do you see that?

24 A Yes.

25 Q And there's no check next to Neve Yamin for Hamas

SHAKED - CROSS - INGERMAN

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1 convictions, right?

2 A That's correct.

3 Q And there's no check next to Dolphinarium for Hamas
4 convictions, right?

5 A That's right.

6 Q And there's no check next to the Emmanuel bombing for
7 Hamas convictions, right?

8 A That's right.

9 Q And there's no check next to Atzmona for Hamas
10 convictions, right?

11 A That's right.

12 Q And there's no check next to Mike's Place for Hamas
13 convictions, right?

14 A That's right.

15 Q And there's no check next to Tel Romeda for Hamas
16 convictions, right?

17 A That's right.

18 Q And there's no check next to the Neve Dekalim column
19 for Hamas convictions, right?

20 A That's right.

21 MR. INGERMAN: Your Honor, I'd like to display the
22 slide to the jury, please.

23 THE COURT: Okay.

24 BY MR. INGERMAN:

25 Q So Mr. Shaked, the slide that we've displayed at slide

SHAKED - CROSS - INGERMAN

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1 number 3, lists all of the attacks that we just went through
2 for which you do not have a check on your summary chart for
3 Hamas convictions, right?

4 A We have to bear in mind that for the terror attack at
5 Atzmona, no one was investigated and no one was arrested.
6 For the terror attack at Mike's Place, no one was
7 investigated and no one was arrested or interrogated rather.
8 At the Tel Romeda attack, for that attack no one was
9 interrogated and no one was arrested. For the terror attack
10 at Neve Dekalim, the mortar attack, no one was interrogated
11 or arrested. For Neve Yamin, the Dolphinarium and Emmanuel,
12 if I were to do the report again, I would probably include
13 the testimonies.

14 Q But they weren't included in your report that you were
15 paid \$120,000 to do this case, were they?

16 A I'm only human.

17 Q So let me try my question again.

18 Am I right that slide 3 represents the seven attacks
19 for which there is no check under the column "Hamas
20 Convictions" in your summary chart; isn't that right?

21 A Yes. But I would like to reiterate that for four of
22 the attacks, no one was arrested and, consequently, no
23 one -- this column could not be filled in. For three of
24 them, I would today include the convictions.

25 MR. INGERMAN: I'll pass the witness, your Honor.

SHAKED - REDIRECT - TURNER

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1 THE COURT: All right.

2 MR. TURNER: A little follow-up, your Honor.

3 THE COURT: Could you take down that poster. It's
4 blocking my view.

5 MR. INGERMAN: Yes.

6 THE COURT: Thank you.

7 MR. TURNER: Can we put up the Neve Yamin slide.
8 That's the first attack.

9 THE COURT: You're looking at me. You have to
10 look at him.

11 REDIRECT EXAMINATION

12 BY MR. TURNER:

13 Q Mr. Shaked, I would like to start where the bank
14 finished and sort of work through four or five different
15 points. First of all, with respect to the issue of
16 convictions, I've put up on the screen your chart and your
17 slide from the Neve Yamin attack.

18 Do you see that?

19 A Yes.

20 Q Now, let's begin at the bottom with the suicide bomber.
21 We know he was obviously not convicted because he blew
22 himself up, but let's go to the upper left and go to that
23 one, Ayman Halawah.

24 Do you know who Ayman Halawah was back at the time?

25 A Yes.

SHAKED - REDIRECT - TURNER

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1 Q Is he dead or alive today?

2 A He's dead.

3 Q Now, let's move over to the right, Abd al-Rahma Hamad.

4 Is he dead or alive today?

5 A He's dead.

6 Q Let's move to the middle, Ra'ed Houtari. Is he dead or
7 alive today?

8 A He's alive.

9 Q And where is he?

10 A He's in prison.

11 Q Now, in some of these and, for instance, Ayman Halawah,
12 was involved in the first, I believe, four attacks we talked
13 about a day and a half, two days ago, was he not?

14 Now, in some of these 24 attacks --

15 THE COURT: Wait. We didn't get the yes.

16 A Yes.

17 MR. TURNER: I heard "ken." I was just a little
18 slower on the up there.

19 BY MR. TURNER:

20 Q Now, in some of these 24 attacks, did you learn during
21 the course of your investigation of these that there were
22 not convictions in some because the terrorists were, in
23 fact, killed?

24 MR. INGERMAN: Objection.

25 THE COURT: Oh, all right. Why did you learn

SHAKED - REDIRECT - TURNER

1335

1 there were no convictions?

2 THE WITNESS: In some cases, the terrorists were
3 killed either at the time of the terrorist attack or
4 afterwards. And in other places, the terrorists weren't
5 arrested at all so there were no testimonies.

6 BY MR. TURNER:

7 Q Now, you were asked some questions at the beginning
8 about a brief period of time in your long journalistic
9 career where you were suspended for a short period of time.

10 Do you recall that question?

11 A Yes. And I'd be very happy to tell why I was
12 suspended.

13 MR. TURNER: Before he goes, let me ask the
14 question. I know he's anxious to answer it.

15 BY MR. TURNER:

16 Q Would you take a moment to explain the circumstances
17 surrounding that suspension and what happened.

18 A In 1999, I published an item in the newspaper which was
19 a very, very sensitive -- on a very, very sensitive subject.
20 It was a scoop, in fact, about the Prime Minister at the
21 time, Prime Minister Ehud Barak, about his plans to divide
22 Jerusalem which he had been planning together with President
23 Clinton from the United States.

24 The item reverberated very, very loudly on the public
25 scene and caused a great deal of criticism of the Prime

SHAKED - REDIRECT - TURNER

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1 Minister.

2 The Prime Minister himself called the editor of the
3 newspaper and demanded an apology from him and also demanded
4 that he take disciplinary steps against me.

5 MR. INGERMAN: Objection, your Honor. Move to
6 strike.

7 MR. TURNER: I don't think it's being offered for
8 the truth of the matter asserted. But I'll wait till I come
9 up there.

10 THE COURT: I understand what you're saying.
11 Better come up here.

12 (Sidebar conference.)

13 (Continued on the next page.)

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SIDEBAR CONFERENCE

1337

1 THE COURT: Well, if it's not being
2 asserted -- offered for the truth of what it asserts, what's
3 it being offered for?

4 MR. TURNER: The circumstances surrounding the
5 suspension that they brought up, the fact that those events
6 transpired.

7 THE COURT: Do those circumstances matter if they
8 are not true?

9 MR. OSEN: I think the difference is not whether
10 the scoop was true, but the circumstances in which he was
11 suspended.

12 THE COURT: They're objecting to the words that he
13 was told. I agree. It seems unfair that they should be
14 able to bring out that he was suspended without letting him
15 explain why. But I can't really say it's not hearsay the
16 way he's saying it now.

17 MR. TURNER: Can I ask him without telling us
18 anything you were told, what were the circumstances
19 surrounding your suspension?

20 THE COURT: If he can answer it that way.

21 MR. TURNER: Sure. And if he says he can't,
22 that's fine.

23 THE COURT: Right. I think you can also ask him
24 what his understanding was -- you can get that -- of the
25 circumstances.

SIDEBAR CONFERENCE

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1 MR. TURNER: Okay.

2 THE COURT: Let's stay away from quotations of
3 what he was told by anyone.

4 MR. INGERMAN: Can we strike the testimony?

5 THE COURT: Yes.

6 MR. INGERMAN: Thank you.

7 (End sidebar conference.)

8 (Continued on the next page.)

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SHAKED - REDIRECT - TURNER

1339

1 THE COURT: All right. The last answer is
2 stricken. We're going to put another question.

3 BY MR. TURNER:

4 Q Without telling us what somebody else told you, why
5 don't you start with that preamble. Would you please
6 explain the circumstances surrounding the suspension.

7 A I published a big scoop about the division of Jerusalem
8 as that was being planned by the Prime Minister together
9 with President Clinton and the story was confirmed in
10 Jerusalem. This caused some anger, a great deal of anger,
11 and reverberated very widely. The paper that I worked for
12 published a correction -- what's called a correction -- of
13 the item and I was suspended.

14 Three days later when the item was ultimately confirmed
15 both in the United States and in Jerusalem, I received a
16 carload of flowers with letters of thanks and gratitude.

17 MR. TURNER: May we display the bus 19 bombing
18 slide?

19 THE COURT: Yes.

20 BY MR. TURNER:

21 Q This is the one that you talked to the bank about where
22 something was written across this person, Nashash, and you
23 asked to explain.

24 Do you recall that dialogue back and forth?

25 A I recall that.

SHAKED - REDIRECT - TURNER

1340

1 Q And the bank told you to wait until I was up here, so
2 what was your explanation as to putting Hamas associated
3 with Nashash?

4 A Because Nashash was the person who made the connection
5 between Ali Ja'ara and Nufal who was from Hamas because
6 Nashash acted on behalf of Hamas with Nufal to dispatch
7 Ja'ara to carry out the attacks in Jerusalem. Nashash was
8 the one who prepared the vest. Nashash and together with
9 Nufal Adawin prepared Ali Ja'ara to be dispatched to
10 Jerusalem for a bombing attack that was unsuccessful. I
11 have no doubt that if the IDF had not erected a barrier, Ali
12 Ja'ara would have indeed blown himself up on a bus for
13 Hamas.

14 Q Now, let's go to the actual record for a minute and
15 make sure that we are clear on it.

16 MR. TURNER: Could you put up slide number 1,
17 which is Exhibit 4044. This is the conviction that's in
18 evidence as Adawin.

19 May we present this, your Honor?

20 THE COURT: Yes.

21 BY MR. TURNER:

22 Q This is Adawin. And are you familiar with the fact
23 that the first thing that Adawin, who is on the chart, was
24 convicted of was being a member in the Hamas organization?

25 Are you aware of that?

SHAKED - REDIRECT - TURNER

1341

1 A Yes. That was the first count he was convicted of.

2 Q Now, he was also convicted of some other crimes that
3 were unrelated to bus 19, was he not?

4 A Yes. Yes, he was convicted of other terrorist attacks
5 that were unrelated to the dispatching of the suicide
6 bomber.

7 Q Now, let's go to slide 2, which is still Exhibit 4044
8 in evidence. And this is one of the other counts he was
9 convicted of, conspiracy to intentionally cause death.

10 He was convicted in that in January 2004, together with
11 his fellow accomplices in the cell, he recruited a man that
12 was designated to carry out the suicide attack. He planned
13 the attack in detail and prepared an improvised explosive
14 device for the purposes of carrying out the attack. The
15 defendant put the explosive belt on the suicide bomber. He
16 filmed and recorded him reading aloud his last will. The
17 rest of those preparations were deleted from the indictment,
18 and as mentioned, this attack, too, was not carried out.

19 Are you familiar with that?

20 A Yes, I am familiar with it.

21 Q Now, go to the next slide, please. This is still 4044.

22 Was Adawin, likewise, convicted of failing to prevent a
23 crime, referencing the bus 19 attack that resulted in the
24 death of 11 Israelis and more than 50 being wounded?

25 A Yes, I am familiar with it.

SHAKED - REDIRECT - TURNER

1342

1 Q Now, let's go to the next slide. This is 4045. This
2 is the conviction of Nashash.

3 Now, in this particular document, in this excerpt from
4 the conviction record, let's go through this and focus for a
5 minute. First of all, the defendant, that would be Nashash,
6 introduced Ali Ja'ara.

7 Was that the suicide bomber?

8 A Yes. Ali Ja'ara is the suicide bomber.

9 Q And this is telling us that Nashash actually introduced
10 the suicide bomber to Adawin, the Hamas representative.

11 Is that how you read it?

12 A Yes, I also read it like this.

13 Q And does this, likewise, indicate that the suicide
14 bomber specifically asked to be allowed to carry out the
15 attack in the name of Hamas?

16 A Yes, indeed, this is what it says in the second line;
17 that the terrorist Ali Ja'ara had asked to carry out the
18 attack on behalf of Hamas.

19 Q Now go to the next slide, please. This is continuing
20 in Exhibit 4045. This is an excerpt that I have underlined.

21 It states, It should also be recalled that the
22 attacker, that would be the suicide bomber, whom Nashash
23 agreed to connect with the terrorists who sent him to the
24 attack, did, indeed, carry out an attack two weeks later.

25 Did I read that correctly?

SHAKED - REDIRECT - TURNER

1343

1 A Yes, indeed, that's right.

2 Q Now, finally, with respect to your slide -- we won't go
3 back to it for the sake of time -- but with respect to your
4 slide, are you still of the opinion that your slide, at
5 least in terms of your entire investigation, is 100 percent
6 completely accurate?

7 A I do confirm that.

8 Q Now, I want to ask you -- and I'm not going to go
9 through each of these attacks. I'm going to do it in one
10 bundle as an example, and I want to focus on the Sbarro
11 Pizza.

12 For several hours, you were asked questions about
13 newspapers -- the *Denver Post*, the *New York Daily*, the *New*
14 *York Times* -- all sorts of other newspapers that from time
15 to time printed claims of responsibility based upon
16 information they had heard.

17 Do you recall that series of questions?

18 A Of course.

19 Q Now, choosing Sbarro Pizzeria as that example, in that
20 example there were four different sources, four different
21 news organizations that reported other organizations having
22 claimed responsibility.

23 Did you have an official claim of responsibility from
24 Hamas for the Sbarro Pizzeria?

25 A Yes, there was an official claiming of responsibility.

SHAKED - REDIRECT - TURNER

1344

1 And I had already mentioned it here. There was one official
2 communique by the Qassam Brigade and another communique that
3 claimed a claim of responsibility which I personally
4 received on my fax on that very same day at 7:00 p.m.

5 Q Did you, likewise, have access to the ISA, the Israeli
6 Security Agency, report identifying Hamas as the responsible
7 party for that attack?

8 A Yes, I did.

9 Q And there were four convictions for that particular
10 attack, Exhibits 3336, 3301, 3300, and 3205, all Hamas
11 operatives.

12 Did you have any convictions for the Sbarro Pizzeria on
13 for any terror organization other than Hamas?

14 A There was no conviction of any other organization
15 except for Hamas.

16 Q And in both of -- in the Sbarro Pizzeria, did you have
17 the opportunity to both interview the bomb maker Barghouti
18 face-to-face, but also the parents of the suicide bomber?

19 A Yes, I did interview Barghouti. And I also interviewed
20 the parents of the terrorists. And if I may, I also
21 interviewed the three additional operatives that were
22 connected to this suicide bombing, Bilal Barghouti, Muhammad
23 Daghlal and Ahlam Tamimi. She was the woman who led the
24 terrorists to the sea.

25 Q Now, is this a good example, this particular attack, a

SHAKED - REDIRECT - TURNER

1345

1 good example of why, if you're in the search for the truth,
2 it's more important to look at the actual evidence rather
3 than a newspaper article from Denver, Colorado?

4 MR. INGERMAN: Objection.

5 THE COURT: Well, I'll sustain the objection.

6 Save it for closing.

7 BY MR. TURNER:

8 Q Why is this important to you as an investigator to look
9 at the evidence?

10 A The materials, the testimonials that I used, are based
11 on facts, on solid facts, things that come from first
12 source. And it is not like the newspaper. The newspaper
13 perhaps gives you the impression of the first hour or
14 something that is pertinent to the moment of printing the
15 newspaper. It does not wait for a thorough investigation
16 and research. It only suffices with a short one. And
17 perhaps sometimes it relies on a phone call. Another time
18 on an anonymous tip-off.

19 But these aren't any facts. I regret the fact that
20 this is the nature of the media.

21 MR. TURNER: That's all the questions I have.

22 THE COURT: All right. You may step down. Thank
23 you.

24 (Witness exits the courtroom.)

25 THE COURT: Ladies and gentlemen, we will adjourn

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1 for the evening. I know you know the instructions very
2 well, but I can't drive them home too forcefully.

3 Please, no communications with anyone about the
4 case in any way. No Internet searches, no twittering, no
5 tweeting, no Myspacing, my Facebooking, no Google searching,
6 nothing like that. Keep an open mind. Stay away from any
7 media coverage of the case. And we'll see you tomorrow at
8 9:30. We are doing well.

9 (Jurors exit the courtroom.)

10 THE COURT: All right. Anything further we need
11 to cover?

12 MR. STEPHENS: No, your Honor.

13 THE COURT: I know I owe you stuff. I'm going to
14 get you stuff.

15 MR. OSEN: Thank you, your Honor.

16 THE COURT: You owe me stuff, too.

17 MR. OSEN: Depending on -- I know your Honor has a
18 busy calendar tonight. So I think the likely scenario is
19 that we'll start with Mr. Spitzen tomorrow and have to play
20 the video when his testimony is completed. So we will --

21 THE COURT: We're going to get you something
22 tonight.

23 MR. OSEN: Okay. Well, then, we'll still see if
24 the IT folks can cut it in time.

25 In any event, what we'll do is submit the exhibit

PROCEEDINGS

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1 list probably in the next hour or two as soon as we get back
2 from court. I think probably we'll have the first 50 slides
3 or so, which we'll give to both the Court and the defendant
4 this evening. So I think that will cover most of the day.

5 THE COURT: Please make them not argumentative.

6 MR. OSEN: Do our best.

7 THE COURT: No Hamas symbols.

8 MR. OSEN: The first one has the Hamas symbol
9 because the witness will explain what it means, but in the
10 context of that.

11 THE COURT: That, of course, is fine.

12 MR. INGERMAN: Your Honor, can we get some sense
13 of how long they think Mr. Spitzen might be on direct?

14 THE COURT: Well, they were really off about this
15 last one.

16 MR. INGERMAN: That's why I ask.

17 THE COURT: What do you think?

18 MR. TURNER: I shared with you yesterday that I
19 thought a day.

20 THE COURT: But he wants you to tell me so that
21 you're on the record.

22 MR. TURNER: I don't think there's any change in
23 that. It's a day. I hope to be finished in a day.

24 MR. INGERMAN: Well, I thought Mr. Osen said we
25 would get the first 50 slides which would cover just

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1348

1 tomorrow so I interpreted that to mean it might go more than
2 a day.

3 MR. OSEN: It's a fair inference, your Honor. I
4 think it's possible he will go more than a day, but
5 Mr. Turner I think is perfecting the art of moving this
6 along.

7 THE COURT: It's going to be a day to a day and a
8 half.

9 Hebrew or English?

10 MR. OSEN: Hebrew.

11 THE COURT: Too bad. By the way, the translators
12 have been great. Really, this is a very good service you're
13 using.

14 One more thing. Hang on.

15 (Brief pause.)

16 THE COURT: About how many exhibits do you imagine
17 for Spitzen? Three, four?

18 MR. TURNER: Well, there's a lot of exhibits, but
19 a lot of them are collections, bank wire transfers, for
20 instance. Instead of standing there identifying one after
21 another, there will be like 40 in a group.

22 THE COURT: Collective groups?

23 MR. TURNER: Sounds like a lot of exhibits, but
24 most of them are collective.

25 THE COURT: How many collective exhibits?

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1 MR. TURNER: I haven't looked at the list.

2 THE COURT: I don't need a precise number. Are we
3 talking dozens or hundreds?

4 MR. OSEN: Hundreds.

5 THE COURT: Hundreds of collective exhibits?

6 MR. TURNER: Hundreds in total.

7 MR. OSEN: There are about 20 senior Hamas
8 leaders, each of which would have received multiple
9 payments. There are five suicide bombers from the 24
10 attacks, plus other, I think, 12 attacks that have multiple
11 payments to various people.

12 So it's really a question of how much foundation
13 has to be laid for bank records in the process.

14 THE COURT: Not much if they're bank records,
15 okay. If they're bank records, they really should be
16 stipulated into evidence.

17 MR. INGERMAN: I actually thought, in response to
18 Mr. Werbner's letter, we pre-admitted a tremendous number.

19 THE COURT: I heard there was an agreement, but I
20 don't think I've been told of the agreement.

21 MR. INGERMAN: Actually, I think Mr. Werbner gave
22 the letter, my letter, to the Court. So I think your Honor
23 has the letter.

24 THE COURT: So we don't need to lay a foundation.

25 MR. OSEN: I think for the vast majority of them

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1 we shouldn't have to.

2 MR. STEPHENS: We don't know what it's going to be
3 yet so I'm not ready to say that. When I see them, I can
4 respond intelligently to that inquiry.

5 THE COURT: Okay. We'll see what we can do.

6 See you tomorrow. Please exit quietly because I'm
7 going to start my next calendar.

8 (Time noted: 4:31 p.m.)

9 (Proceedings adjourned until Thursday, August 28,
10 2014, at 9:30 a.m.)

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